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## **Bayside Planning Panel**

**12/09/2017**

Item No	5.1
Application Type	Development Application
Application Number	DA-2016/172
Lodgement Date	4 November 2015
Property	<b>610 Princes Highway, Rockdale</b>
Owner	Chandru Enterprises Pty Ltd
Applicant	Urban Link Pty Ltd
Proposal	Integrated Development - Construction of a seven (7) storey residential flat building development, comprising forty eight (48) residential units, roof top communal open space, basement parking and demolition of existing structures
No. of Submissions	4 to original proposal. Nil to amended proposal.
Cost of Development	\$13,397,634
Report by	Pascal van de Walle, Senior Assessment Planner

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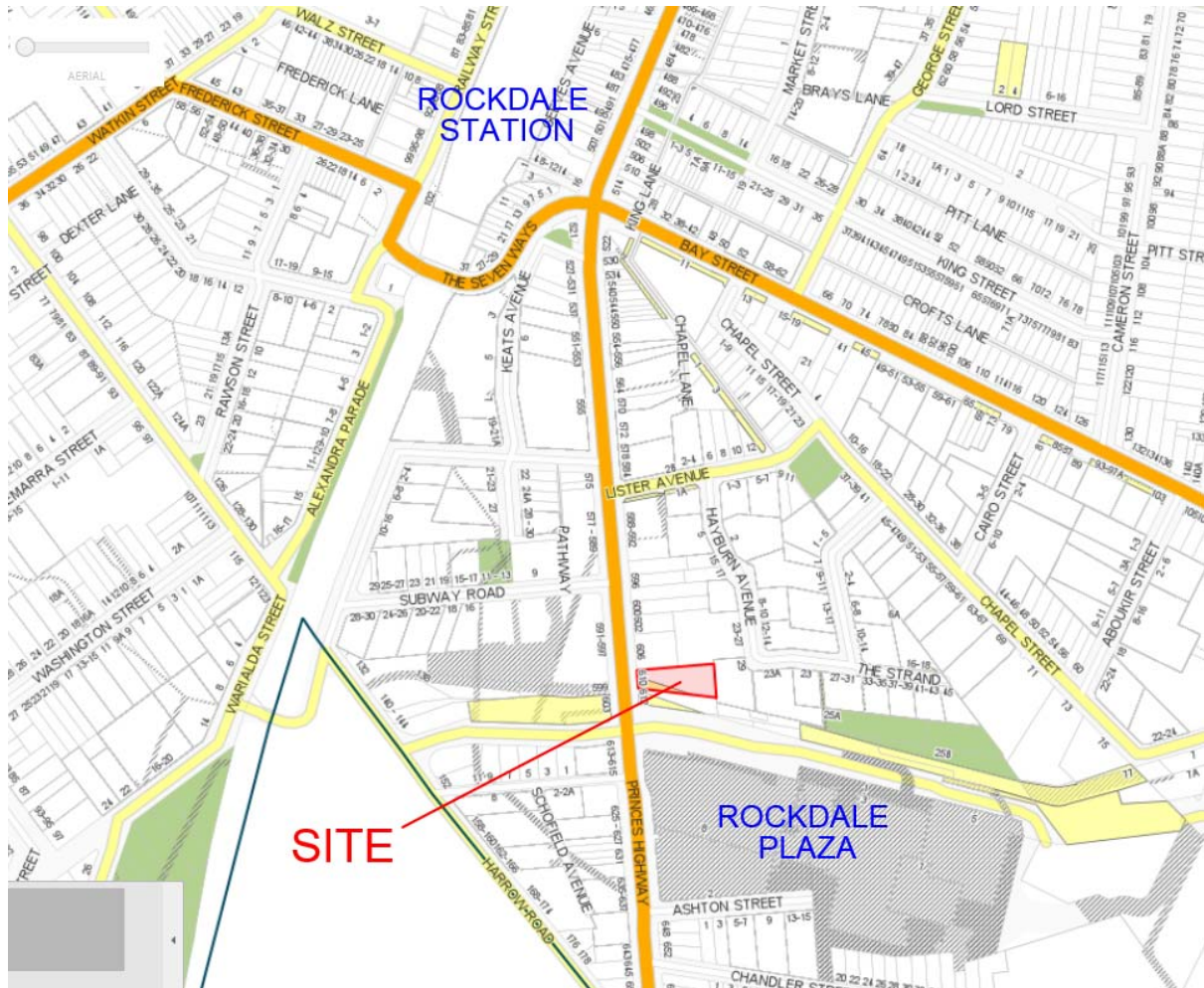
## **Officer Recommendation**

- 1 That the Bayside Planning Panel accepts the Clause 4.6 variation to Clause 4.3 of RLEP 2011 (Height) as requested by the Applicant.
  - 2 That this Development Application be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
  - 3 That the objectors be notified of the Bayside Planning Panel's decision.
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## **Attachments**

- 1 Planning Report
  - 2 Site Plan
  - 3 Elevations and Sections
  - 4 Photomontage and Schedule of Finishes
  - 5 Clause 4.6 Variation
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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/172
<b>Date of Receipt:</b>	4 November 2015
<b>Property:</b>	610 Princes Highway, ROCKDALE (Lot 10 DP 5683)
<b>Owner:</b>	Chandru Enterprises Pty Ltd
<b>Applicant:</b>	Urban Link Pty Ltd
<b>Proposal:</b>	Integrated Development - Construction of a seven (7) storey residential flat building development, comprising forty eight (48) residential units, roof top communal open space, basement parking and demolition of existing structures
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	4
<b>Author:</b>	Pascal van de Walle
<b>Date of Report:</b>	28 August 2017

### Key Issues

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The proposal includes construction of a seven (7) storey mixed use development comprising 48 residential units and three (3) levels of basement car parking, and demolition of existing structures.

The site is located at the southern edge of the 'Rockdale Town Centre' and adjacent to Muddy Creek, a Sydney Water stormwater channel. The site is located within the 'Arterial Edge' area established within the Rockdale Development Control Plan 2011 (RDCP 2011) which requires provision of a '3m Green Gateway' setback and three storey podium to Princes Highway. The aim of the setbacks is to establish a more spacious and open character which transitions into the strong urban character established in the 'Centre Core', in accordance with the Rockdale Town Centre Masterplan. The proposal does not satisfy all requirements of the DCP, however the scheme has been significantly amended so that it satisfies the key objectives for the Rockdale Town Centre in RDCP 2011 and will provide a positive contribution to the streetscape.

The site is constrained by its narrow lot frontage, which is further reduced by a required land dedication to Sydney Water for stormwater drainage purposes, its frontage to a busy arterial road and a future 6m RMS road widening. The proposal has been amended so that the development will be able to function independently and so that it does not conflict with the required land dedication or road widening.

The site does not have any FSR controls, similar to all properties located in the Rockdale Town Centre, and bulk and scale is therefore limited by the height provisions in RLEP and the setback provisions contained in RDCP 2011 and the Apartment Design Guide (ADG). The proposal generally complies with the maximum 22m height permitted by RLEP 2011, however includes minor variations to parts of

the top residential level and variations to accommodate the lift, stairs and small roofed area associated with the rooftop communal open space. Council have previously supported height variations to permit access to roof top communal open space areas, and the applicant has provided a justification to the variation under Clause 4.6 which is supported in this case.

The proposed development generally complies with the requirements of the Apartment Design Guide (ADG), with the exception of some of the building setbacks, particularly where the site shares its boundary with the R4 High Density Residential zone and the ADG recommends that an additional 3m setback be provided at these interfaces. The amended proposal satisfies the key issues raised by the Council's Design Review Panel and minimises privacy, bulk and scale impacts to adjoining properties in accordance with the objectives of the requirements. The proposal is therefore satisfactory with regards to the ADG.

The property is identified in Council's records as being potentially contaminated and the application was accompanied by a Phase 2 Detailed Site Investigation Report which identified that some remediation work will be required, including remediation of PAH's in fill soils and deeper natural soils. A Remedial Action Plan (RAP) was also submitted to Council which concludes that *"the site can be made suitable for the approved development following the implementation of this RAP"*. Council's Environmental Health Team have accepted the recommendations contained within the report as being satisfactory and have provided recommended conditions to include in the draft Notice of Determination. Therefore, in accordance with Clause 7 (1)(b) of SEPP 55, Council is satisfied that the land will be suitable for the purpose for which the development is proposed to be carried out.

The application was notified in accordance with Council's requirement and four (4) submission were received. The key issues raised include technical non-compliance with the requirements of Clause 4.6, the consistent application of policy requirements, inadequate site frontage to permit development of the site in isolation, construction & traffic impacts, absence of details regarding waste management, inadequate unit mix, potential noise impacts resulting from surrounding land uses and overshadowing impacts. The issues have been considered in the assessment, and the impacts have been adequately minimised and/or addressed as detailed in the body of the report.

Overall, the proposal is considered to address its existing and future desired context, satisfy the requirements and/or objectives of the relevant planning policies, satisfactorily minimise impacts to neighbouring properties and provide an appropriate response to the streetscape. The proposal will contribute to the desired future character of the area and is therefore recommended for approval subject to recommended conditions of consent.

## Recommendation

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1. That the Bayside Planning Panel accept the Clause 4.6 variation to Clause 4.3 of RLEP 2011 (Height) as requested by the Applicant;
2. That this Development Application be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objectors be notified of the Bayside Planning Panel's decision.

# Background

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## History

A pre-DA was held with Council Officers on 17 December 2014. The proposal included a ten (10) storey building with rooftop terrace. The key advice provided included:

- It is strongly recommended that the site be amalgamated with the adjoining sites to the north to create a wider frontage, achieve a better design outcome and not lead to the isolation of the adjoining sites.
- The proposed scheme did not incorporate the design requirements in the Rockdale Town Centre Development Control Plan, and substantial redesign was recommended to reflect the controls.
- Any proposed works within or in close proximity to the Sydney Water channel shall approved by the authority prior to lodgement of any development application.
- Consideration to be given to the mature Eucalypts located at the north eastern (rear) corner of the site and a mature Araucaria (possibly a Column Pine) located within the neighbouring property at 23-27 Hayburn Avenue which could be affected by excavations associated with the proposed construction.

This DA was subsequently lodged with Council on 4 November 2015.

The application has been amended throughout the process to provide an 11m front setback, a curved building frontage to the street elevation with wrap around balconies, a redesigned pedestrian and vehicular access to the site, the provision of a colonnade that runs along the north-western elevation connecting the pedestrian entry to the deep soil communal open space area at the rear of the site.

Various Development Applications have been lodged on nearby sites with frontage to Princes Highway, however due to various issues, none of those applications has progressed and, in fact, most have been withdrawn.

The Council is also currently assessing a Planning Proposal at 591-597 Princes Highway which is located directly opposite the site. The Planning Proposal was publicly notified from 28 June 2017 to 27 July 2017 and seeks the following key amendments to RLEP 2011:

- Change the Land Zoning from B2 – Local Centre to B4 – Mixed Use;
- Change the Floor Space Ratio standard from 2:1 to have no maximum Floor Space Ratio control; and
- Change the maximum Height of Building from 22m to permit development up to 47.15m for sites with an area of over 9,000m<sup>2</sup>.

The Planning Proposal is still under consideration.

## Proposal

The proposal includes construction of a seven (7) storey residential flat building development, comprising forty eight (48) residential units, basement parking for 55 cars, and demolition of existing structures. Specifically, the proposal includes the following:

- Demolition  
Demolition of all the existing structures.

- Tree Removal

Removal of all mature trees at the rear of the site. Council's Tree Management Officer has granted approval for removal of the existing Column Pine tree located on the adjoining lot No. 23-27 Hayburn Avenue, subject to approval from the land owner and subject to adequate replacement tree planting.

- Excavation

Excavation works associated with the provision of three (3) levels of basement car parking.

- Construction

Construction of a seven (7) storey residential flat building, comprising:

- Forty-eight (48) residential units, including
  - 15 x 1 bedroom (31.2%)
  - 30 x 2 bedroom (62.5%)
  - 3 x 3 bedroom (6.3%)
- Parking - Three (3) levels of basement parking for 55 vehicles, 4 motorcycle spaces and 6 bicycle rack spaces. This includes:
  - 45 residential car spaces (including 5 accessible spaces);
  - 10 visitors car spaces (including 1 accessible space);
  - 4 motorcycle spaces
  - 6 bicycle spaces
- Servicing - a loading bay for a Small Rigid Vehicle (SRV) is proposed at Basement Level 1 for Waste & Recycling collection, and removalist vans.
- Communal Open Space - Two areas of communal open space are proposed, including a 115m<sup>2</sup> area at the rear ground floor level and a 585m<sup>2</sup> roof top communal open space area. The rear area has been amended to be wholly deep soil.

- Landscaping

A landscape plan has been submitted which includes replacement tree planting at the rear and front boundaries, and planting at roof top level. The rear area has been amended to be wholly deep soil planting, and a planting strip is provided along the driveway.

It is also noted that part of the site containing the Sydney Water concrete channel known as 'Muddy Creek' is zoned SP2 and is also identified in the Land Reservation Acquisition Map in RLEP 2011. Recommended conditions require that this land be dedicated to Sydney Water.





**Figure 1** - 3D image of front facade



**Figure 2** - 3D image of southern elevation of proposal (showing Muddy Creek)



**Figure 3** - 3D image of northern elevation of proposal

**Site location and context**

The site has a very narrow 14.315m frontage to Prince Highway, a northern boundary length of 68.56m,

a rear (eastern) boundary width of 29.925m, and a southern boundary length of 70.32m. The site is comprised of a single lot that is irregular in shape and has a total site area is 1,511m<sup>2</sup>.

The site is located on the eastern side of Princes Highway and has a split zoning, being principally Zone B4 Mixed Use and partly SP2 Infrastructure (stormwater). The land zoned SP2 is located at the south-western portion of the site and accommodates part of the Sydney Water concrete channel "Muddy Creek" (and associated infrastructure) that generally abuts the southern boundary of the site. This part of the site is also identified in the "*Land Reservation Acquisition Map*" under RLEP 2011 and has not been included in the development proposal.

The site has a fall from south to north of approximately 300mm along the Princes Highway frontage and a difference in levels of approximately 1.5 – 2 metres from the street down to the rear boundary of the site.

The site contains a cluster of trees along the rear boundary with adjoining sites, and a dense line of trees is located on the opposite bank of Muddy Creek adjacent to Rockdale Plaza Drive.

Existing development on the site includes a two-storey showroom and office building fronting Princes Highway, and a single storey factory/warehouse building to the rear. The front part of the site is hard paved and is used for parking, manoeuvring and deliveries. The buildings are built to the sites northern boundary, however have a stepped setback to Muddy Creek along the south of the site.

An existing parcel of land owned by Sydney Water and known as 612 Princes Highway abuts the southern side of the site. It primarily contains the Sydney Water channel, however at its north-eastern side it includes a part of land that is located above the channel and abuts the site. This remnant part of land will remain undeveloped and can only be accessed from the channel.

Surrounding development comprises the following:

- North – single storey buildings containing service centres, offices and display rooms, and associated hard stand areas for parking and car sales yards fronting Princes Highway. Also, to the north are four (4) storey residential flat buildings with frontage to Hayburn Avenue.
- East - To the east is a three (3) storey residential flat building with frontage to Hayburn Avenue.
- South - To the south is Muddy Creek, a tributary of the Cooks River, which is a brick and concrete lined channel owned by Sydney Water. Further to the south is Rockdale Plaza Drive (with dense planting along its southern bank) and "Rockdale Plaza Shopping Centre" which includes residential towers above.
- West – Princes Highway, a six (6) lane classified road. On the opposite side of Princes Highway is the Toyota car sales and service centre and a McDonald's restaurant. Multi storey mixed use developments are also located on the opposite side of Princes Highway to the south-west.

The Council is also currently assessing a Planning Proposal at 591-597 Princes Highway (the Toyota Site), located directly opposite the site. The Planning Proposal was publicly notified from 28 June 2017 to 27 July 2017 and seeks the following key amendments to RLEP 2011:

- Change the Land Zoning from B2 – Local Centre to B4 – Mixed Use;
- Change the Floor Space Ratio standard from 2:1 to have no maximum Floor Space Ratio



control; and

- Change the maximum Height of Building from 22m to permit development up to 47.15m for sites with an area of over 9,000m<sup>2</sup>.

The Planning Proposal is still under consideration.



**Figure 4 - Site Location Plan**



**Figure 5 - Existing development on adjoining sites (Source: Urban Link).**



**Figure 6 - Aerial image of 610 Princes Highway & 612 Princes Highway. No. 612 is owned by Sydney Water.**

## Statutory Considerations

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## ***Environmental Planning and Assessment Act, 1979***

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

### **S.91A - Development that is Integrated Development**

The proposal includes excavation works for three (3) levels of basement car parking that will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from NSW Water, Department of Primary Industries. NSW Water deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 15 December 2015 which have been included in the Draft Notice of Determination.

### **S.79C(1) - Matters for Consideration - General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 666174M\_02.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption	- 22%
Reduction in Water Consumption	- 41%
Thermal Comfort	- Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

##### **State Environmental Planning Policy (Infrastructure) 2007**

#### **Clause 101 - Development with frontage to classified road**

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

The proposal was therefore sent to the Roads & Maritime Service (RMS) and their initial response dated 18 December 2015 stated that they were currently investigating upgrade works to the intersection of Princes Highway / Rockdale Plaza Drive as part of their Gateway to the South Program of works and that these works would most likely affect the subject site. Their letter did, however, also state that notwithstanding these potential works, RMS would provide concurrence to the proposed vehicular crossing on Princes Highway under Section 138 of the Roads Act 1993 subject to Council's

approval and compliance with recommended conditions.

Since that time the RMS have identified that the road upgrade works will 'likely' require a 6m road widening for the full width of the subject property as detailed in the plan attached to their second letter dated 10 November 2016. A further update was sought from RMS and a response was received by email dated 5 June 2017 confirming their request that the building be setback to reflect the proposed 6m road widening. In addition, they requested that the first 6m of driveway have a minimum width of 5.5m and maximum gradient of 1 in 20 for the first 6 metres into the site. The applicant has submitted plans which show the proposed road widening and appropriate conditions are included to ensure compliance with the RMS driveway width and gradient requirements.

With regards to the requested setback, the building had previously been amended to include a front setback of nearly 12m to the ground floor level to address issues raised by the Council's Design Review Panel (DRP). The building setback decreases to 9m at the top floor level, however the proposed development will remain clear of the potential road widening requirements of the RMS. Furthermore, the proposed setback will also permit general compliance with the objectives of the Green Gateway setback required for the Rockdale Town Centre in accordance with RDCP 2011 (refer to assessment of RDCP 2011 later in the report).

The RMS have not raised any objection to the proposed development, and their amended letter continues to provide concurrence for the proposed driveway works. Therefore, subject to imposition of the RMS's recommended conditions the proposal is satisfactory with regards to RMS requirements.

The application is consistent with the provisions of the SEPP and is acceptable in this regard.

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

The proposed development is for a residential flat development that is on land in or adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS), and it is considered likely that the future occupants would be adversely affected by road noise or vibration without implementation of noise attenuation measures. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

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

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

The proposal was accompanied by an Acoustic Report, prepared by Acoustic Noise & Vibration Solutions P/L titled '*Inter-tenancy, Traffic & Aircraft Noise Assessment*' for 610 Princes Highway, Rockdale (Reference No. 2015-427 Rev 2) dated 28 April 2016. The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the draft Notice of Determination.

#### **Clause 45 - works within the vicinity of electricity infrastructure**

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

Accordingly, the proposal has been sent to Ausgrid. The authority has responded and does not object to the works subject to inclusion of standard conditions of consent which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

### **State Environmental Planning Policy No 55—Remediation of Land**

The property is identified in Council's records as being potentially contaminated and the application was accompanied by a Phase 2 Detailed Site Investigation Report prepared by Environmental Investigations (EI) Australia (dated 8 September 2015). This report identified contamination that will require remediation, including PAH's in fill soils and deeper natural soils.

A Remedial Action Plan (RAP) was therefore also prepared and submitted to Council. The report, prepared by EI Australia (dated 8 April 2016), concludes that *"the site can be made suitable for the approved development following the implementation of this RAP"*. Council's Environmental Health Team have accepted the recommendations contained within the report as being satisfactory and have provided recommended conditions to include in the draft Notice of Determination.

Therefore, in accordance with Clause 7 (1)(b) of SEPP 55, Council is satisfied that the land will be suitable for the purpose for which the development is proposed to be carried out. The proposed development satisfies the requirements & objectives of the SEPP.

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

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

#### **(a) *The advice of the Design Review Panel (DRP)***

The proposal has been referred to the Design Review Panel on two occasions, including 3 December 2015 and 8 April 2016. The Panel found that the site is heavily constrained and they provided a range of recommendations which have generally been addressed in an amended design. The amended design is a significant improvement on the original scheme, and the DRP found that the amended proposal responded to the site in a much more thoughtful manner and the Panel *"supports the Gridiron expression at the front of the building and the simple continuous spandrels that create a streamlined modernist language"*.

The key amendments made include the provision of an increased front setback, modified built form to provide a slender building at the front alignment, deletion of the proposed side return adjoining the property located to the north, simplified external building design, internal reconfiguration to include two lift cores that permit additional cross-through units, the provision of deep soil at the rear to accommodate tree planting, and modifications to the roof top communal open space area.

The DRP raised a number of matters with the amended proposal which they recommended be addressed and referred to Council for consideration. The applicant has resolved the issues raised, and the proposal is found to satisfy the remaining DRP comments. The key issues raised by the DRP are discussed below:

- Issue: Where the proposal does not satisfy the ADG setbacks or LEP height control, the variations must be fully justified and resulted in no loss of amenity to each adjoining neighbour. Alternatively, the proposal must be amended to comply with the setback and height controls.  
Comment: The proposal has been significantly amended and, while not fully compliant with the ADG setbacks nor LEP height control, the proposal addresses the objectives of the ADG setback requirements. In addition, a Clause 4.6 variation to the height has been provided and is supported as discussed in the assessment of RLEP 2011. The proposal is found to provide a positive contribution to the streetscape which minimises impacts to neighbours, and is supported.
- Issue: The rear (north-eastern) setback to be increased to accommodate the existing tree, and the quantity of deep soil proposed must be commensurate to the requirements of the ADG.  
Comment: The existing trees are located on/near the boundaries and, based on further analysis, their retention is not supported. The rear setback areas are now fully deep soil and the applicant has provided an area of communal open space at the rear which can accommodate the replacement planting of a large tree as recommended by the DRP. The proposal as amended complies with the deep soil requirements of the ADG.
- Issue: The site represents the start of the Princes Highway 'green gateway' and continuous planting should be provided in a 3m front setback zone which is clear of the future RMS road widening. The height and species of trees should be large and complement the height of the trees located on the opposite side of the Sydney Water Channel.  
Comment: The amended plans maximise the amount planting within the front setback area, including provision of a tree that will grow to a mature height of approximately 8m. The proposal is constrained by the future RMS road widening and the narrow lot frontage, however the landscape provision is considered to satisfy the objectives of the 'green gateway' to the extent possible in this case.
- Issue: Consideration to be given to relocation of the living rooms to the street frontage instead of balconies, however if the balconies are kept at the street facing point of the building, the column should be relocated.  
Comment: The applicant has investigated the alternatives proposed and, based on their analysis, consider that the retention of the balconies at the street front will have a much lighter appearance, which softens the impacts of the building on the streetscape and will compliment development on adjoining sites. They also consider that the alternative of providing two columns on each side of the balcony would result in a poor built form outcome. They consider that the single column provides a positive contribution to the built form that has minimal impacts on the usability of the balcony. Therefore, they have retained the balconies and the single column in the location as proposed. The applicant's position is supported in this case.
- Issue: The lobby door is excessively recessed and should be moved closer to the street front to resolve a potentially dangerous and unsafe area.  
Comment: The lobby doors have been relocated closer to the front of the site and the



development is supported in this case.

- Issue: The design of the roof terrace to be improved and provide space for plant and equipment which is integrated with the landscape design.  
Comment: The proposed roof top communal open space has been significantly redesigned, is accessible by lift and stairs and contains space for plant and equipment as recommended.
- Issue: The proposal should comprehensively address the sustainability objectives in the ADG.  
Comment: The application complies with BASIX, and the revised design complies with the solar access and cross-ventilation requirements in the ADG. The applicant has also committed to the inclusion of LED lighting to communal areas and rainwater harvesting at roof top level. The proposal is acceptable in this regard.
- Issue: Provide a slot to the east of the eastern lobby on all levels so that light, air and outlook can be provided to the lobby space.  
Comment: This has not been provided. The western lobby obtains high levels of natural light and ventilation, however the site and design is constrained. The eastern lobby provides access for 4 units off the core, and it is considered unreasonable in this case to require provision of a slot.
- Issue: The DRP recommended the inclusion of balconies protruding into the Sydney Water land, and landscaping of the adjoining parcel of land adjacent to the channel.  
Comment: The applicant has included balconies above the Sydney Water Land, and the design outcome is supported. The applicant has not, however, been able to obtain owner's consent from Sydney Water prior to determination. Therefore, a condition is proposed requiring that land-owners consent be obtained prior to issue of the Construction Certificate, alternatively the balconies must be amended so that they are contained wholly within the subject site.

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

The application was accompanied by a Design Verification Statement prepared by the architect, Urbanlink, which addresses the nine (9) design quality principles under the SEPP. In addition, the architect has prepared a response to the DRP issues raised and has submitted an updated Design Verification with the amended proposal. The applicant's position is generally agreed with, and the 9 design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

***Principle 1 – Context and neighbourhood character***

The site is heavily constrained by the narrow lot frontage, the adjacent Muddy Creek (Sydney Water Channel), the frontage to Princes Highway and the R4 zoning of some adjoining sites. The area is currently characterised by lower scale light industrial and commercial developments, and is the first site in the immediately locality to be redeveloped under the amended RLEP 2011. The site is also the first property at the southern end of the 'Rockdale Town Centre' under RDCP 2011. The amended proposal has addressed the issues raised by the Panel and is found to address the existing and future context in this area which is undergoing a transition to higher density residential flat buildings and mixed use developments as permitted by RLEP 2011. This is also the first development within the 'green gateway' area of the town centre and it will assist to establish the new context and character of the town centre. Careful consideration has been given to the proposal and it is found to satisfactorily address the existing and future context of the area.

### *Principle 2 – Built form and scale*

The building height is generally consistent with Council's LEP requirements, and the minor variations to the maximum building height are supported for the reasons discussed in response to Clause 4.6 of RLEP 2011 later in the report. The site is located on what may be considered as a corner position, and the scale of development when viewed from the street frontages is consistent with the LEP requirements as well as proposed developments on adjoining and nearby sites within the Rockdale Town Centre. The proposed building has been amended to address the built form issues raised by the DRP and Council, specifically with regards to design and built form appearance of the building within the street. The amended proposal is satisfactory, with appropriate use of articulation of the facades via the incorporation of balconies, pedestrian entries at ground level, and the range materials which add visual interest to the facades.

### *Principle 3 - Density*

*The Rockdale Town Centre is not subject to FSR control, and the density is generally guided by the maximum height provisions in RLEP 2011 and the required setbacks in the ADG and RDCP 2011. The proposed height and setbacks are found to be acceptable and the density is considered suitable for this narrow corner site. The proposal is therefore acceptable in this regard.*

### *Principle 4 – Sustainability*

The application complies with BASIX and the applicant has agreed to additional commitments which have been included in the recommended conditions of consent. The proposal complies with the deep soil requirements of the ADG, and proposes replacement tree planting. In addition, a generous area of communal open space has been provided at roof top level to ensure that residents have access to communal open space which receives adequate sunlight at mid-winter.

### *Principle 5 - Landscape*

The site is heavily constrained, however includes a 3 metre 'green gateway' setback to Princes Highway to the extent possible. The setback is beyond the proposed 6m RMS road widening and the applicant has also included planting along the driveway and the northern side of the site. Generous planting is also provided at the roof top level. The proposed landscape areas will be complemented by planting within the public domain, and will complement the building, screen the building from adjoining properties, and contribute to the streetscape and locality.

### *Principle 6 - Amenity*

The proposal satisfies the cross ventilation and solar access requirements of the ADG. The applicant has amended the plans to address most of the amenity issues identified by the DRP, and the proposal includes a high quality communal open space area at roof top level that will have quality views and amenity for the benefit of residents. The lobbies have been improved in size and legibility, and provide a high quality entrance to the development. The units and rooms are of adequate size and dimensions, and storage has also been provided in accordance with ADG. The built form has been reorganised to improve the building's relationship with the public domain, benefiting the amenity of pedestrians and users of the surrounding public domain. Overall, the amended proposal has significantly improved the level of amenity that will be afforded to future residents. The proposal is therefore considered to provide an acceptable standard of amenity.

### *Principle 7 - Safety*

The proposal has been amended to remove concealment opportunities as recommended by the DRP. The proposed balconies at the street front will maximise passive surveillance of the surrounding public

domain. Access to the car park and loading bay are secure, and security access points are provided to gain access to the lift lobby. Suitable lighting and CCTV will be required by conditions of consent, and the proposed design is satisfactory in this regard.

*Principle 8 - Housing diversity and social interaction*

The site is well located near Rockdale railway station, and the proposal includes a variety of apartment sizes and layouts. The proposal is therefore satisfactory in this regard.

*Principle 9 - Aesthetics*

The amended proposal includes a range of materials, colours and finishes that will provide a satisfactory contemporary development in the context of the site and the changing nature of Rockdale Town Centre. The proposal is therefore considered comply with this principle.

**(c) The Apartment Design Guide**

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

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

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3J - Bicycle and car parking	<p>As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.</p> <p>Parking provided off street.</p> <p>A minimum of parking spaces are required as follows:</p> <ul style="list-style-type: none"> <li>• 1 bed units = <math>0.6 \times 15 = 9</math></li> <li>• 2 bed units = <math>0.9 \times 30 = 27</math></li> <li>• 3 bed units = <math>1.4 \times 3 = 4.2</math></li> <li>• Visitors = 1 / 5 units (- 20% for Rockdale Town Centre) = 8</li> </ul> <p>Motorcycle Parking = 1 / 15 units = 4</p> <p>Bicycle Parking = 1 / 10 units = 5</p>	<p><u>Car Parking</u></p> <p>Minimum Required = 48.2 spaces</p> <p>Total Provided = 55 spaces</p> <p>(The proposal does not exceed the maximum permitted under RDCP 2011, being 59 car spaces)</p>	Yes

4D – Apartment size and layout	Minimum internal areas:		All units comply with the minimum requirements: 1 bed units = 51 - 60m <sup>2</sup> 2 bed + 2 bath = 75 - 85m <sup>2</sup> 3 bed + 2 bath = 96-102m <sup>2</sup>	Yes
	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>		
	Internal areas includes only one bathroom. Additional bathrooms increase area by 5m <sup>2</sup> each.			
	Further bedrooms increase minimum internal area by 12m <sup>2</sup> each.			
4C – Ceiling heights	Minimum ceiling heights:		The minimum floor to floor height is 3.0m. Therefore, a minimum 2.7m ceiling heights for habitable rooms and 2.4m for non-habitable rooms can be achieved.	Yes
	Habitable	2.7m		
	Non-habitable	2.4m		
3D - Communal and Public Open Space	25% of site area 50% direct sunlight to principal usable part of communal open space for min 2hrs between 9am and 3pm on 21 June.  Communal open space is to be of an adequate area, must enhance residential amenity, provide opportunities for landscaping, allow for a range of activities, and be attractive and inviting.		The proposal includes two areas of communal open space - 126m <sup>2</sup> at the rear north-east corner at ground level, and 585m <sup>2</sup> area at roof top level. The total 711m <sup>2</sup> is the equivalent of 47% of the site area. The areas are high quality, usable and provide activities for a range of activities.	Yes

3E - Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table><tr><th>Site area</th><th>Min. dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 650sq.m.</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650-1500sq.m.</td><td>3m</td></tr><tr><td>greater than 1500sq.m.</td><td>6m</td></tr><tr><td>greater than 1500sq.m. with significant existing cover</td><td>6m</td></tr></table>	Site area	Min. dimensions	Deep soil zone (% of site area)	Less than 650sq.m.	-	7%	650-1500sq.m.	3m	greater than 1500sq.m.	6m	greater than 1500sq.m. with significant existing cover	6m	The proposal includes a 115m <sup>2</sup> (7.6%) area of deep soil area at the rear of the site. It does not have a minimum dimension of 6m for the full extent of the area and therefore does not fully comply with the requirements for sites with an area over 1,500m <sup>2</sup> .	Partial Compliance - exceeds minimum 7%, does not meet min. 6m dimension. Variation supported. (see <i>Note 1</i> below)
Site area	Min. dimensions	Deep soil zone (% of site area)													
Less than 650sq.m.	-	7%													
650-1500sq.m.	3m														
greater than 1500sq.m.	6m														
greater than 1500sq.m. with significant existing cover	6m														
3F Visual Privacy	<p>Min separation - side &amp; rear boundaries:</p> <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> <p>Buildings on the same site combine required building separations. Gallery treated as habitable space</p>	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	Not all setbacks comply with the ADG. Refer to 'Note 2' below.	Partial Compliance - however supported (see <i>Note 2</i> below).
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													



4A – Solar and daylight access	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am &amp; 3 pm mid-winter</p> <p>Max 15% apartments receive no direct sunlight b/w 9am &amp; 3pm mid-winter</p>	38 of 48 units achieve in excess of 3 hours sunlight at mid-winter (79%).	Yes															
4F – Common circulation and spaces	<p>Max apartments off a circulation core on a single level is eight.</p> <p>10 storeys and over, max apartments sharing a single lift is 40.</p>	Maximum 4 units off a single circulation core and a maximum of 27 units sharing a single lift.	Yes															
4E – Private open space and balconies	<p>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>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bed</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bed</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bed</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m<sup>2</sup> and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m <sup>2</sup>	-	1 bed	8m <sup>2</sup>	2m	2 bed	10m <sup>2</sup>	2m	3+ bed	12m <sup>2</sup>	2.4m	All balconies comply with the minimum requirements.	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m <sup>2</sup>	-																
1 bed	8m <sup>2</sup>	2m																
2 bed	10m <sup>2</sup>	2m																
3+ bed	12m <sup>2</sup>	2.4m																
4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Ten storeys or &gt; are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	35 of 49 units (71%) are provided with cross ventilation.	Yes															

4G – Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	The applicant has shown adequate storage areas within the units and at basement level, and Relevant conditions are proposed to ensure that the CC plans include adequate storage in accordance with the ADG.	Yes										
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td></tr><tr><td>1 bed</td><td>6M<sup>2</sup></td></tr><tr><td>2 bed</td><td>8m<sup>2</sup></td></tr><tr><td>3 bed</td><td>10m<sup>2</sup></td></tr></table>			Dwelling type	Storage size volume	Studio	4m <sup>2</sup>	1 bed	6M <sup>2</sup>	2 bed	8m <sup>2</sup>	3 bed	10m <sup>2</sup>
	Dwelling type			Storage size volume									
	Studio			4m <sup>2</sup>									
	1 bed			6M <sup>2</sup>									
	2 bed			8m <sup>2</sup>									
3 bed	10m <sup>2</sup>												
At least 50% of the required storage is located within apartment													

#### Note 1 - Deep Soil

The ADG requires provision of a minimum area of 105m<sup>2</sup> (7%) of deep soil within the site with minimum dimensions of 6m. The proposal includes a 115m<sup>2</sup> (7.6%) area of genuine deep soil at the rear of the site which exceeds the minimum area required, however the deep soil area does not comply with the minimum 6m dimensions for all parts. While a minimum 6m dimension is required for sites with an area greater than 1,500m<sup>2</sup>, the provision of an additional deep soil zone with a depth of 3m would be acceptable for this site which only marginally exceeds 1,500m<sup>2</sup> and the deep soil area is consolidated into a single area. In addition, the proposal includes some deep soil at the front of the site. Therefore, the proposal is found to be acceptable in this case.

#### Note 2 - Setbacks

The proposal is subject to the side and rear setback requirements contained in Objective 3F-1 of the ADG as detailed in the tables above and below.

It is relevant to note that the property shares some of its boundaries with land zoned R4 High Density Residential, and that an additional 3m setback is required to these 'lower density' sites which have a maximum permitted height of 14.5m and maximum FSR of 1:1 (see **Figure 7** below). The relevant 'design guidance' from the ADG reads as follows:

*"Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)".*

These adjoining R4 zoned sites include No. 23-27 Hayburn Avenue to the north which contains an existing four (4) storey RFB that includes habitable windows with a minimum 6m setback to the subject site, and the adjoining R4 zoned site to the east (rear) No. 29 Hayburn Avenue that contains an existing three (3) storey RFB with balconies and habitable windows with a minimum setback of 3m from the subject site.



**Figure 7 - zone interfaces with the subject site.**

The proposed setback requirements for the subject proposal are detailed in the compliance table below:

Building Height	Required setback to site boundary	Proposed	Compliance
Up to 12m (4 storey)	3m non-habitable rooms 6m habitable rooms & balconies + 3m for lower density zone	<p>* South Elevation = 0-1m.</p> <p>* North Elevation (adjacent B4 zone) = 6.13m</p> <p>* North Elevation (adjacent R4 zone) = 6.13m</p> <p>* East (rear) Elevation = 3.1m to balcony for ground level unit &amp; high-light windows, and 6.1m for windows to some bedrooms.</p>	<p>No - however adjacent to Sydney Water Channel &amp; acceptable.</p> <p>Yes</p> <p>No – should be 6m + 3m additional as it adjoins lower density residential land, however variation supported.</p> <p>No – should be 6m + 3m additional as it adjoins lower density residential land, however variation supported.</p>

Up to 25m (5-8 storey)	4.5m non-habitable rooms  9m habitable rooms & balconies  + 3m for lower density zone	* South Elevation = 0-1m  * North Elevation (adjacent B4 zone) = 6.13m  * North Elevation (adjacent R4 zone) = 6.13m  * East (rear) elevation = 3.13m – 6.19m	No - however adjacent to Sydney Water Channel & acceptable.  No – 9m required to habitable  No – should be 9m + 3m additional as it adjoins lower density residential land, however variation supported.  No – should be 9m + 3m additional as it adjoins lower density residential land, however variation supported.
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The plans have been amended on a number of occasions to minimise potential privacy impacts to existing and possible future developments on adjoining sites. While the proposal does not satisfy the numeric setback requirements as demonstrated in the table above, the amended proposal is found to satisfy the objectives of the setback requirements and is supported in this case. The objective of 3F-1 is:

*'Adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy'*

In summary, the following key modifications have been made to the proposal:

- reconfigured unit layouts to reduce the number and size of north facing balconies and windows,
- increasing the setbacks of some windows in the northern elevation to be 9m, and inclusion of some planters adjacent to windows (to be constructed in accordance with recommended conditions to ensure they are functional);
- staggering the rear (eastern) setback to be between 3m and 6.19m;
- inclusion of full height privacy screens where required;
- inclusion of high-light windows; and
- inclusion of a new planter bed adjacent to the driveway along northern site boundary.

The applicant in their 'Revised Statement of Environmental Effects' prepared by Planning Ingenuity (dated 15 June 2017) provides a detailed analysis of the proposed building setbacks. They find that the setbacks are now acceptable as the privacy impacts have been suitably minimised in accordance with the objectives of 3F-1 of the ADG. The key rational provided by the Applicant is as follows:

- The apartments are primarily orientated to the north to maximise solar access. The setbacks adjacent to the B4 zoned land comply for the first 4 stories and the windows above Level 4 have been setback 9m to comply with the ADG requirements adjoining this B4 land.
- An additional landscape buffer has been provided along the northern boundary will assist to minimise overlooking impacts.
- The rear portion of the site which adjoins the southern side of the units at No's 23-27 Hayburn

Avenue has a setback of 6.13m from the boundary, resulting in a shared setback of 12.9m between the proposed building and the neighbouring building. Combined with the amended internal layouts and proposed landscape planting between the boundary, the proposal will have minimal privacy impacts and satisfies the objectives.

- The rear (eastern) elevation is setback between 3.1m and 6.18m, while 9m - 12m is required given the additional 3m required. Where the rear setback encroachments occur above ground floor level, high level windows are proposed to minimise privacy impacts to No. 29 Hayburn Avenue while allowing sunlight and ventilation to the rooms. There are some normal windows which have a separation distance of 9.1m to the adjoining site, however these are considered to be satisfactory given this shared separation distance and landscape screening.
- Setbacks to Level 4-5 have been increased to between 4.6m and 6.2m from the boundary, increasing the shared separation distance to 7.6m to 9.16m. This separation distance is more in line with the ADG standard and together with the high light windows and stepping of the building line will minimise privacy impacts.

The applicant's rationale is generally agreed with. Further to the above, the following additional matters demonstrate that the proposed setbacks achieve the objectives of the building separation requirements in this case:

- The rear north-eastern units at Levels 2-7 have been reconfigured so that units face away from No.23-27 Hayburn Avenue. This results in a reduced number of balconies and habitable windows facing this adjoining property which, combined with louvre screening and use of high-light windows along the northern side elevations, minimise privacy impacts to this adjoining site.
- The ground level terraces in the rear (eastern) elevation have been provided with privacy screens to minimise overlooking to balconies to the west at No.29 Hayburn Avenue. Furthermore, deep soil planting is provided along the rear boundary and Council's Landscape Architect has ensured that appropriate species have been chosen for screening purposes.
- The proposed northern setback for Levels 5 - 7 adjacent to the B4 zoned land to the north (i.e. No. 594 Princes Highway) have been amended so that the setback of all windows now complies with the required 9m setback, however some balconies will continue to have setback of 6.5m and do not comply. The applicant has provided louvre screening to the balconies at the front of the site, and a condition is proposed so that the remaining balconies include obscure glazing to minimise impacts. Furthermore, the non-compliant balconies are located opposite the rear of this adjoining site and are considered to result in limited constraints on the redevelopment of the adjoining site.

Further to the above, the proposed setbacks to No. 23-27 and 29 Hayburn Street are commensurate to the setbacks of buildings within these adjoining sites and are found to be satisfactory in the context of these adjoining developments. Compliance with the additional 3m setbacks to these adjoining properties located within the 'High Density' Residential zone is not considered reasonable in this case given the nature and context of development on these adjoining sites. Based on the site specific circumstances, combined with the measures included in the amended design as described above, the overall privacy impacts from the proposal are considered to be minimal and satisfactory in accordance with the objectives of the Part 3F-1 of the ADG.

## Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion



Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone SP2 Infrastructure	Yes	Yes
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.1 SP2 Stormwater	Yes	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
5.9AA Trees or vegetation not prescribed by development control plan	Yes	Yes
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

### 2.3 Zone B4 Mixed Use

Part of the subject site is zoned B4 - Mixed Use and part of the site is zoned SP2 - Special Uses under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011).

The proposal is located wholly on land zoned B4 - Mixed use, and no development is proposed to be located on that part of the site zoned SP2 - Special Uses (which contains the concrete Sydney Water channel also known as 'Muddy Creek').

The proposed development is defined as a *Residential Flat Building* which constitutes a permissible development only with development consent on land zoned B4 Mixed Uses. The objectives of the B4 zone are:

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

The proposed residential flat building is located at the southern edge of the Rockdale Town Centre, and nearby Rockdale Plaza. The proposed residential development is located in a position that will maximise use of alternative forms of transport, including walking. The proposed development is consistent with the objectives of the zone.

The proposal also satisfies the objectives of the SP2 zone in that it ensures that the Sydney Water stormwater channel will not be adversely impacted.

### 2.7 Demolition requires consent

The proposed development seeks consent for the demolition of all existing structures. Hence the proposal satisfies the provisions of this Clause.

### 4.3 Height of buildings

A maximum height limit of 22m applies to the subject site. The proposal seeks to vary the height

standard applicable to the subject site by between 0.5m (2.3%) and 2.16m (9.8%) to the top of the roof parapet, and a maximum of 4.9m to the top of the lift & overrun providing access to the roof top communal open space (22.2%). The ceiling height for the top floor (Level 7) is below the 22m building height at the sites frontage, however the roof parapet above exceeds the maximum height limit by 0.5m at this point. The ceiling height for Level 7 exceeds the maximum building height by 0.95m at the eastern (rear) part of the site, and the has a height of 24.16m to the top of the roof parapet above Level 7 at this point (i.e. 2.16m above the maximum 22m). The maximum height to the top of the pergola structure for the roof terrace is 25.9m, and the maximum height to its highest point is 26.9m, being the top of the lift accessing the roof terrace.

The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed above exceedance. The above has been addressed within Clause 4.6 of this report. The proposal is deemed to be consistent with the objectives of clause 4.3 - Height of Building for the reasons outlined within Clause 4.6.

#### 4.6 Exceptions to development standards

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

- (3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and
- (3)(b) that there are sufficient environmental planning grounds to justify the variation.

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

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

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

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

The proposed variations to height have been assessed below.

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

#### Extent of Variations Proposed - Height

As discussed within Clause 4.3 - Height of Buildings, the proposal seeks to vary the height standard applicable to the subject site by between 0.5m (2.3%) and 2.16m (9.8%) to the top of the roof parapet, and a maximum of 4.9m to the top of the lift & overrun providing access to the roof top terrace (22.2%) (see **Figures 8 & 9**). It is noted that the ceiling height for the top floor (Level 7) is below the 22m building height at the sites frontage, however the roof parapet above exceeds the maximum height limit

by 0.5m at this point. The ceiling height for Level 7 exceeds the maximum building height by 0.95m at the eastern (rear) part of the site, and has a height of 24.16m to the top of the roof parapet above Level 7 at this point (i.e. 2.16m above the maximum 22m). The maximum height to the top of the pergola structure for the roof terrace is 25.9m (RL29.45), and the maximum height to its highest point is 26.9m (RL30.45), being the top of the lift accessing the roof terrace.



**Figure 8 - Building Height exceeding maximum 22m height limit (Section B-B)**



**Figure 9 - Building Height exceeding maximum 22m height limit (Southern Elevation)**

The applicant has submitted a detailed justification to the proposed variation to the height development standard in accordance with Clause 4.6 of RLEP 2011.

A summary of the key rationale provided by the applicant in their clause 4.6 variation for the height development standard are as follows:

- The proposal is consistent with the objectives of the height development standard, particularly as the proposal provides a high quality built form which responds to the site topography, constraints and context, and which generally complies with the policy requirements. Furthermore, the proposal will contribute to a landmark building at the southern entrance to the Rockdale Town Centre that will provide an appropriate transition in built form and land use intensity to surrounding sites and will maintain a satisfactory level of sky exposure and daylight to surrounding buildings and the public domain. In addition, the applicant considers that heights may increase on adjoining sites, and densities within the surrounding block may have heights of up to 31m.
- The proposal is consistent with the objectives of the B4 Mixed Use zone as the development provides a residential building in an accessible location that will maximise public transport patronage and encourage walking and cycling. Further, the proposal as amended will ensure

minimal loss of amenity to future occupants of adjoining sites when redeveloped.

- There are sufficient environmental planning grounds to justify contravening the height development standard as the proposal will provide 'a better outcome for and from development' through provision of a high quality residential development in a configuration that will not adversely impact nor detract from neighbouring properties.
- Compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposal meets the objectives of the standard and the zone. In addition, the proposed provides benefits in providing additional dwellings within an acceptable built form outcome.

The applicant's justification is generally agreed with. The area of non-compliance to the height is supported in this case in context of clause 4.6 for the following reasons:

- The proposal will provide a high quality built form which provides an appropriate transition in height and minimises impacts to adjoining properties, and is therefore consistent with the objectives of the height standard in RLEP 2011 which are:
  - (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
  - (b) to permit building heights that encourage high quality urban form,*
  - (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,*
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*
- The proposed residential flat building is consistent with the desired future context of the Rockdale Town Centre. It is located within easy walking distance to Rockdale Train Station and bus interchange, as well as easy walking distance to Rockdale Plaza supermarkets & shops, and the proposal will therefore encourage walking, cycling and use of public transport. The proposal is therefore consistent with the objectives of the B4 Mixed Use zone which are:
  - (a) To provide a mixture of compatible land uses.*
  - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- The proposal generally complies with the height standard. The majority of the variation relates to structures associated with the roof top communal terrace (and access thereto), which provides a significant benefit to future occupants and also a benefit to the locality as the roof top will be heavily landscaped and provide a positive contribution to the streetscape.
- The proposal has been amended to address the issues raised by Council's Design Review Panel who were generally supportive of the amended design. The DRP found that the amended proposal responds to the site in a much more thoughtful manner and they supported "*the Gridiron expression at the front of the building and the simple continuous spandrels that create a streamlined modernist language*".
- The additional height proposed is minor and is not considered to be a detrimental environmental planning outcome as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site or to neighbouring properties.
- The proposal is consistent with the aims of the Building Height control as specified within Part 2C of the Apartment Design Guide, ensuring the development responds to the desire future scale and character of the Rockdale Town Centre.

The height development standards aforementioned are deemed unreasonable and unnecessary in this instance for the reasons noted above.

The applicant's Clause 4.6 variation is well founded and, it is considered that in this instance, there are sufficient environmental planning grounds and public benefit in which to justify the contravention of the height standard for the site.

#### 5.1 SP2 Stormwater

Part of the site is zoned SP2 Infrastructure "Stormwater" and includes a portion of the Muddy Creek channel. This part of the land is also identified in the "Land Reservation Acquisition Map" in RLEP 2011 and Clause 5.1 requires consideration of restrictions applying to the land. The proposal has been designed to ensure that all development is clear of this part of Muddy Creek which Sydney Water have also confirmed by letter dated 16 January 2016 is covered by an easement. Furthermore, Sydney Water have confirmed that, according to their records, acquisition of this part of their stormwater asset has not yet proceeded. Therefore, recommended conditions of consent require that the land be dedicated to Sydney Water. This also requires inclusion of relevant conditions of consent requiring that a separate application for a subdivision certificate be submitted to Council to allow the transfer of the land to Sydney Water.

#### 5.9 Preservation of trees or vegetation

The proposal includes removal of existing trees located at the rear of the site, and the applicant has provided an Arboricultural Report which has been assessed by Council's Tree Management Officer. These trees are located at or on the boundary, are overhanging adjoining properties or are causing damage to fencing on the boundary. Council's Tree Management Officer has also confirmed that the existing Eucalyptus trees are in poor condition. Therefore, these trees may be removed subject to replacement planting. In this regard, a deep soil area has been provided at the rear that will permit the planting of a replacement tree, and an additional tree is proposed within both the front and northern side setback areas to compensate for the trees removed. Furthermore, substantial landscape planting is proposed throughout the site.

The applicant's Arboricultural Report also recommends removal of the Column Pine tree located on the adjoining lot No. 23-27 Hayburn Avenue. In view of the Consultant's justification, Council's Tree Management Officer concurs with the removal of the Column Pine subject to at least one replacement tree being planted in its place in the same vicinity. However it is noted that the written consent of the Housing NSW will need to be provided to Council prior to the tree removal work commencing. This has been included as a condition of consent.

The proposal is therefore acceptable with regards to Clause 5.9 of RLEP 2011.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affect the property. Development Consent is required as the proposed works is within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD and the works may lower the watertable beyond 1m of adjacent Class 1, 2, 3 or 4 land.

In this regard, an Acid Sulfate Soils Assessment Report prepared by Environmental Investigations Australia, dated 8 September 2015, was prepared for the proposed development. The report concluded that site soils present a risk for generating acidic sulfate compounds on oxidation, and the report therefore includes a plan for the Management of Acid Sulfate Soils (Part 6). Additional conditions of consent are imposed in the draft Notice of Determination to ensure that works are carried out in accordance with the submitted ASS Management measures. Therefore, the proposal is consistent with the objectives and requirements of clause 6.1.



## 6.2 Earthworks

The proposal includes excavation works associated with three (3) levels of basement car parking, and consideration has been given to potential impacts. The subject site has a narrow frontage to Princes Highway and is located adjacent to the Sydney Water's concrete channel. In this regard, RMS have granted concurrence subject to compliance with recommended conditions, including that the developer submit design drawings relating to the excavation to RMS for approval prior to commencement of works. Also, Sydney Water has provided a written response to the proposal including a requirement that works be setback at least 1m from the easement of their channel. The basement levels satisfy this requirement. Furthermore, Water NSW have granted concurrence to temporary dewatering of the site during excavation works, and the applicant has submitted an Acid Sulfate Soils (ASS) Management Plan to manage the potential presence of ASS. The applicant will retain a portion of the site for deep soil, including the front portion which will be paved with porous paving to permit water to recharge the water table. The proposed excavation works are therefore considered to satisfy the requirements of this control.

## 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51.0m to AHD. The building has a maximum height of 30.45m to AHD and in this regard it will not intersect the OLS and it is considered that the proposed building will have minimal adverse impact on the OLS. Furthermore, SACL has granted approval for the maximum building height.

## 6.6 Flood Planning Land

The site is affected by flooding and the proposal has therefore been designed to ensure that the driveway crossing and habitable floor levels are a minimum of 4.38m (AHD), and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

## 6.7 Stormwater

The proposal involves the construction of an on site detention system to manage stormwater. The proposed stormwater system has been assessed by Council's development engineers and the proposal is acceptable subject to conditions requiring that amended plans be submitted to, and approved by, the Principal Certifying Authority prior to issue of the Construction Certificate. The proposal is considered to be acceptable with this clause.

## 6.12 Essential services

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

## **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

The NSW Department of Planning has released for public comment the Draft State Environmental Planning Policy (Infrastructure) 2007 (the Draft Infrastructure SEPP). The amendments to the Infrastructure SEPP propose to simplify the delivery and maintenance of social infrastructure including health facilities, correctional centres, emergency and police services, and council services. There are no provisions relevant to this proposal.

## **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

### **Rockdale Development Control Plan 2011**

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
Rockdale Development Control Plan 2011	Yes	Yes - see discussion
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.6 Development on Sloping Sites	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes - see discussion	No - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes
4.3.3 Communal Open Space	Yes	Yes
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes - see discussion
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.7 Hot Water Systems	Yes	Yes
5.2 RFB - Building Design	Yes	Yes
5.2 RFB - Building Entry	Yes	Yes
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
7.5.1 Street Role - Centre Edge Residential	Yes	Yes
7.5.1 Residential Apartment Design	Yes	Yes
7.5.1 Parking and Loading	Yes	Yes
7.5.1 Communal Open Space	Yes	Yes
7.5.2 Setbacks	Yes - see discussion	No - see discussion
7.5.2 Street Character	Yes - see discussion	No - see discussion
7.5.2 Arterial Edge	Yes - see discussion	No - see discussion

#### Rockdale Development Control Plan 2011

The application is subject to Rockdale Development Control Plan (RDCP) 2011. A compliance table for the proposed development is provided above. It is noted that clause 6A of SEPP 65 indicates that several provisions of the Apartment Design Guide (ADG) override this DCP and as such the related provisions under the DCP will not be addressed, including:

- Visual privacy
- Solar access and daylight access
- Common circulation and spaces
- Apartment size and layout
- Ceiling heights
- Private open space and balconies
- Natural ventilation
- Storage

In addition to the above, building form, design, appearance and streetscape issues have been considered in detail in the assessment of SEPP 65 and are found to be acceptable in accordance with the ADG, SEPP 65 and RDCP 2011.

#### 4.1.1 Views and Vista

The proposal will not result in any unexpected view loss from adjoining sites, and has been designed to allow future occupants to benefit from views toward Botany Bay from the upper building levels. The proposal is acceptable with regards to these controls.

#### 4.1.9 Lot size and Site Consolidation - Residential flat buildings

A minimum lot width of 24m is required at the street frontage for residential flat buildings in accordance with Part 4.1.9 of RDCP 2011. The proposed development has a lot width of 14.35m, however this is further reduced by the land acquisition requirement for the adjoining Sydney Water drainage channel (Muddy Creek). Therefore, the site has an actual frontage to the street of approximately 9.5m which does not comply with RDCP 2011.

The applicant considers that the reduced lot width will not result in the isolation of adjoining sites which are large enough be redeveloped or could be consolidated to form a larger development site.

Consideration has also been given to the ability of this constrained site to accommodate development in its own right and not require consolidation to achieve a satisfactory built form outcome which is acceptable within the context of the site and the future character of the Rockdale Town Centre while avoiding unreasonable impacts to adjoining properties. In this regard, the built form has been significantly amended including an increased front setback from 6m to 11.6m and provision of a modified slender built form at the front alignment that sits comfortably within the site. The proposal also accommodates adequate car parking, landscape area and deep soil areas, and the development results in minimal impacts to adjoining properties and generally complies with the requirements of the relevant policies as detailed in this report. It is therefore found that the proposal satisfies the objectives of this requirement.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The applicant has demonstrated that solar access to and within the proposed development complies with the requirements of the ADG. With regards to overshadowing of adjoining properties, overshadowing plans have been submitted which demonstrate that the proposal will not create any overshadowing impacts to adjoining residential properties between 9am and 3pm at mid-winter. The proposal will overshadow the Princes Highway and a small portion of the McDonald's site at 9am, and the Sydney Water channel / Rockdale Plaze Drive at midday and 3pm. The proposal will only start to create some impacts to the adjoining residential units after 3pm. The proposal is therefore acceptable with regards to this clause.

#### 4.4.5 Visual privacy

The proposal has been amended so to minimise privacy and overlooking impacts toward adjoining properties as discussed previously in the assessment of SEPP 65. The proposal as amended is considered to provide an acceptable outcome which satisfies the requirements and objectives of RDCP 2011.

#### 4.4.7 Wind Impact

The amended plans were accompanied by a Pedestrian Wind Environment Statement prepared by Windtech (dated 9 June 2017). The study concludes that tolerable wind conditions are expected in most parts of the development, however that many private balconies and communal open space areas would benefit from wind mitigation measures, including the following:

- *Retain proposed fencing around the eastern ground level private and communal open spaces;*
- *The inclusion of one of the following options along the southern edges of the communal roof terrace areas:*
  - *Option 1: Densely foliating shrubs at least 1.5m in height.*
  - *Option 2: 2m high impermeable screening.*
- *The inclusion of full-height, porous screens along either the southern or northern edge of the western corner balconies at all levels.*

The plans have been updated to address these issues. The applicant has confirmed that either screening or planting can be used at roof top level, and advise that they proposed both which includes a 2m high screen of acrylic perspex. The use of solid screening is not supported where an alternative planting solution is possible. Therefore a condition is proposed requiring that planting be provided and that and screen requires further approval from Council. Subject to compliance with this condition, the proposal is satisfactory in this regard.

#### 4.5.1 Social Equity - Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use developments are flexible, maximise housing choice and provide equality of access. The proposal is considered to satisfy the relevant objectives and requirements. Compliance with the key controls are discussed below:

- Provision of 10%-30% 1 bedroom units, 50-75% 2 bedroom units, and 10-20% 3 bedroom units. The proposal includes 31.2% x one-bed units, 62.5% x two-bed units and 6.3% three-bedroom units. The proposal generally complies with the unit mix with the exception of the proportion of 3 bed units. The proposal provides a mix of units that is consistent with other nearby and surrounding developments. The proposed variation is minor and the mix is therefore considered satisfactory in this case.
- Minimum 10% of units being adaptable in accordance with AS 4299, and barrier free access to be provided to a minimum of 20% of apartments.  
Part 4.5.1 requires that a minimum of five (5) dwellings are to be provided as adaptable units in accordance with AS 4299. The proposed development was accompanied by an Access Report which concludes that the proposal will be capable of providing the required number of accessible units. In addition, the report confirms that 20% of the units would be capable of achieving the Silver Level Livable Housing Guidelines to satisfy Section 4Q of the SEPP 65 ADG.

The proposal is therefore considered to satisfy the requirements of Part 4.5 of RDCP 2011 subject to inclusion of recommended conditions.

#### 4.6 Driveway Widths

The driveway has been assessed by Council's Development Engineer and is supported, including the provision of the planter bed located along the northern side boundary which accommodates screen planting and will provide significant amenity for future occupants and the adjoining site. The proposed driveway width is found to be acceptable subject to recommended conditions of consent.

#### 4.6 Design of Loading Facilities

The site includes a loading bay for an SRV size truck. This area will be used for waste collection, and will also be used by removalist vans. A condition requires the preparation of a Plan of Management for use of the loading bay to ensure that residents are aware of its location and hours of use to avoid conflict with waste collection vehicles.

#### 4.7 Waste Storage and Recycling Facilities

The site is severely constrained and there is no ability for waste and recycling to be collected from the site by Council's waste collectors. This is due to the size of the vehicle and its inability to enter and leave the site in a forward direction.

The Applicant has therefore provided adequate details from three (3) private waste management companies, including swept path diagrams, which demonstrate that waste and recycling can be collected from within the basement of the proposed development by a private contractor using a 7.5m small rigid vehicle (SRV).

Council's Waste Management Officer has confirmed that the proposal is acceptable subject to inclusion of a condition requiring that separate waste and recycling bins be provided for future occupants to ensure that the development meets their obligations under the Waste Minimisation Act 1997. Also, it

has been requested that a 4m<sup>2</sup> area be provided for the storage of bulky waste collection.

Therefore, subject to imposition of relevant conditions, the proposal is acceptable with regards to the waste storage and recycling provisions contained in Part 4.7 of RDCP 2011.

#### 4.7 Service Lines/Cables

The proposal does not include an electricity substation, and relevant conditions are proposed requiring that a Section 96 Application be submitted if amendments are required to incorporate a substation within the site.

#### 5.2 RFB - Lift Size and Access

The corridor widths are a minimum of 2m, and a condition is proposed requiring that the lifts have minimum internal dimensions of 2.1m x 1.5m as required by the DCP.

#### 7.5.2 Setbacks

The site is not subject to FSR Controls, and the density of development in Rockdale Town Centre is controlled using the height provisions contained in RLEP 2011 combined with the setback provisions for contained within Part 7.5.2 of RDCP 2011. The controls in Part 7.5 of RDCP 2011 are based on the vision and strategies in the Masterplan, and they have been established thorough urban design analysis, modelling as well as economic testing.

In this case, the subject site is located within the 'Centre Edge' and 'Arterial Edge' street frontage / character areas of Princes Highway, which includes a 3m 'Green Gateway' requirement. The 'Arterial Edge' area provides a transition into the 'Centre Core' area of the Rockdale Town Centre.

The 3 metre Green Gateway setback is critical to ensure that the objectives of the Rockdale Town Centre Masterplan are achieved. The Masterplan acknowledges that existing centres are often “harsh and unattractive” due to historic trends in development on main roads, and determined that the proposed “Green Gateways” at the four entrances to the Town Centre are “critical” to distinguished Rockdale from the rest of the Princes Highway and other nearby centres.

Specific objectives for the Arterial Edge area of the Town Centre are also further defined in the DCP as follows:

*"Street edge defined by modulated built form transitioning from the strong urban character in the Centre core to the more specious and open character of the surrounding residential area. Buildings will have regard to the speeds of observers and be clearly read as a strong podium upon which sites a lighter, modulated building allowing vistas between buildings to the skyline beyond".*

In summary, the building setback requirements for this site are as follows:

- (1) Setbacks to three (3) storey podium levels:
  - (a) 3m 'Green Gateway' front setback to Princes Highway;
  - (b) 0m side setback to adjoining sites.
- (2) Setbacks above three (3) storey podium level:
  - (a) 6m front setback to Princes Highway above the 3rd level (i.e. an additional 3m beyond the podium levels);

- (b) 4.5m side setback (and a maximum facade length of 40m);

The proposal does not provide a three storey podium style development as required for this part of the Rockdale Town Centre, however the numeric setback requirements cannot be applied to this stand alone building which has been amended to address its site context and constraints, and the issues raised by the Council's Design Review Panel.

As discussed in the assessment of SEPP 65, the built form has been amended to provide a slender built form at the sites frontage which has been simplified and setback further into the site. This design outcome provides a more suitable and appropriate built form for this site which is located at the southern entry to the Rockdale Town Centre and adjacent to the Muddy Creek stormwater channel. The proposal is able to provide for the 3m 'green gateway' by inclusion of a tree and some planting in the front setback area, with deep soil below. The proposal also exceeds the minimum 4.5m side setback by providing a 6m setback between buildings which satisfies the objectives of the 'Arterial Edge' Street Character by providing a more spacious and open character with vistas between buildings. Furthermore, the building will not be out of context with future developments on adjoining sites that would be required to comply with the RDCP 2011 setback requirements.

Consideration has also been given to the suitability of proposed setbacks following the proposed 6m RMS road widening. While the setbacks from the new front boundary of the site would be substantially reduced to be approximately 5.6m at the ground floor level reducing to 3.8m at the top of the building, the applicant has submitted 3D modelling which demonstrates that the proposal would sit well within the desired future context of the Rockdale Town Centre where adjoining developments are designed to satisfy the DCP setback requirements as well as the RMS road widening.

The proposed development is therefore considered to satisfy the objectives of the 'Arterial Edge' Street Character area of Rockdale Town Centre by providing a building scale and design which will provide a positive contribution to the streetscape and improved sense of space and experience for users at the entrance to the Town Centre. The proposed development is therefore considered to be acceptable with regards to part 7.5.2 of RDCP 2011.

#### 7.5.2 Street Character

Refer to discussion under '7.5.2. Setbacks' above. The proposal is satisfies the objectives of the 'Street Character' requirements in RDCP 2011.

#### 7.5.2 Arterial Edge

Refer to discussion under '7.5.2. Setbacks' above. The proposal is satisfies the objectives of the 'Arterial Edge' requirements in RDCP 2011.

### **S.79C(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

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



## **S.79C(1)(b) - Likely Impacts of Development**

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

- **Impact on adjoining Sydney Water Channel / Muddy Creek**  
Amendments have been made to the proposal to address issues raised by Sydney Water. In addition, relevant conditions are proposed to ensure that the Channel part of the site is dedicated to Sydney Water, that the works comply with Sydney Water requirements and that plans are approved by Sydney Water prior to issue of the Construction Certificate. Subject to compliance with the approved plans and recommended conditions, impacts to the Sydney Water channel are considered to be satisfactorily minimised.
- **Impacts from future RMS Road Widening**  
The RMS have requested that the development be appropriate setback to reflect the future road alignment which would require a 6m corridor across the Princes Highway frontage of the site. The building has been setback beyond the proposed road widening, and the applicant has relocated all services clear of the area proposed for road widening. A condition recommends planting of a tree in a planter box within this area given that timing of the road widening is uncertain. This will not conflict with the RMS road widening as it will be a separate small structure which can be easily demolished if required. The proposal is acceptable in this regard.
- **Construction Traffic & Works Zone(s)**  
The site has a narrow frontage to Princes Highway and is also located nearby the intersection with Rockdale Plaza Drive. Construction traffic will need to be managed carefully to ensure impacts to traffic flow and safety. Therefore, recommended conditions require that a Construction and Traffic Management Plan be prepared prior to issue of the Construction Certificate, and that approval be obtained from the relevant authority (RMS) if a works zone is required on Princes Highway during works. Subject to compliance with the submitted reports and recommended conditions of consent, the impacts from the construction traffic and works is found to be satisfactorily minimised.
- **Construction Works**  
Impacts associated with construction works under this DA will be minimised through use of standard conditions relating to hours of construction, noise and vibration, dust suppression, traffic management, shoring of adjoining properties, and the like, as well as specific conditions imposed by RMS and other authorities to minimise impacts on the adjacent classified road, railways, Telstra infrastructure and other infrastructure and the environment.
- **Traffic & Access**  
The site is located within 500m walking distance of Rockdale railway and bus interchange, as well as nearby Rockdale Plaza, and this will encourage future occupants to prioritise public transport use. The application complies with the parking requirements in the ADG as well as the provision of motorcycle and bicycle parking facilities, visitors parking, loading bay and car wash bay in accordance with RDCP 2011. The proposal has been amended to ensure that waste can be collected wholly within the site, and ample space is provided for queuing of vehicles within the site. RMS have provided their Concurrence, and the proposal is supported by Council's Traffic Development Advisory Committee subject to compliance with RMS requirements. The proposal is also supported by Council's Development Engineer subject to imposition of recommended conditions. Further consideration has been given to traffic issues in the assessment of the

Infrastructure SEPP, and in the response to submissions section below. Overall, the parking and traffic impacts of the proposal are considered to be minimised and satisfactory.

- **Social Impact**

The proposal will enhance the public domain, including provision of a well designed building and some planting along the Princes Highway frontage. The residential units have access to good public transport and shops that will assist to reduce car use, and the proposal includes motorcycle and bicycle parking. The proposal also includes substantial areas of communal open space that will benefit from good solar access throughout the year. The proposal now includes some 3 bedroom units and will contribute to housing diversity within the locality.

- **Safety and Security**

Safer by Design principles of crime prevention through environmental design are incorporated into RDCP 2011 and this aspect has been considered in the assessment of this proposal. The proposal has been designed as a secure development, with restricted access to private and communal areas and to the basement parking areas. The proposal activates and enhances the sites frontage and will increase passive surveillance of the public domain. Furthermore, draft conditions are proposed requiring the installation of CCTV cameras at relevant locations, the preparation of a lighting maintenance policy, use of graffiti resistant materials at ground floor level and provision of an intercom facility for residents.

### **S.79C(1)(c) - Suitability of the site**

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

### **S.79C(1)(d) - Public submissions**

The original development was notified in accordance with the provisions of Rockdale DCP 2011 and four (4) submissions were received. The amended proposal has also been notified and no submissions were received. The submissions received to the original proposal have been considered below. It is noted that the submission from McDonald's Australia Pty Ltd clearly states that it is not an objection, however that they want to ensure that potential noise impacts from their existing restaurant are considered in the assessment process. The remaining three (3) submissions raised objections to the proposal, including one (1) submission which has been prepared by a Town Planning firm on behalf of *'an interested party with investments and experience land transactions in the area who is keen to ensure that the recent LEP amendments pertaining to Rockdale Centre are implemented in a fair and equitable manner, and so that no one owner/developer may gain at the expense of others in terms of development potential'*.

The issues raised in the submissions are discussed below, and have generally been addressed in the amended proposal:

Issue 1: Clause 4.6 variation to the height standard has not been properly constructed and the extent of the variation has not been properly identified.

Comment: The applicant has submitted an amended Clause 4.6 with the amended proposal which details the extent of the variation and which is properly constructed.

Issue 2: The proposal fails to satisfy some of the setback requirements contained in the Apartment Design Guide, and fails to acknowledge that an additional 3m building separation is required at a zone boundary where lower density housing is permitted. *"The proposed development, if approved, would impose an unfair and inequitable onus on adjoining developers to meet these separation requirements. Such an approach is considered to be inconsistent with the objects of the Act in terms of the orderly and coordinated development of land".*

Comment: Detailed consideration has been given to the proposed setbacks in the assessment of the ADG above, and it has been found that the setbacks are acceptable in the circumstances of this case. The assessment has included consideration to the additional 3m setback required for sites which share a boundary with a lower density zone.

Issue 3: The site frontage is inadequate and a significant departure from the Council's DCP requirements. It does not permit a development capable of creating an appropriate presence to the street and does not permit adequate landscape planting in the street setback. A superior outcome would be achieved through site amalgamation.

Comment: The proposal has been amended and it has been found that the amended proposal will provide a positive contribution to the streetscape. Amalgamation with adjoining sites is not required as discussed in the body of the report.

Issue 4: Construction Traffic impacts should be addressed in detail before determination due to site constraints and impacts to traffic on Princes Highway.

Comment: Relevant conditions have been imposed on the consent as recommended by Council's Engineer's to ensure that construction works will be carried out with minimal impacts to the traffic on Princes Highway and adjoining sites.

Issue 5: No details provided regarding waste management.

Comment: The proposal has been amended so that waste collection can be undertaken from within the site using a Small Rigid Vehicle (SRV). The proposal is acceptable in this regard.

Issue 6: Unit mix does not comply with Council's requirements.

Comment: The application has been amended to include a mix of 1, 2 and 3 bedroom units. The proposed unit mix is supported as discussed previously in the report.

Issue 7: Noise impacts from existing 24 hour McDonald's - A submission was received from McDonald's making Council aware that their operations are approved for 24 hour trading and requesting that the windows and doors of the units be appropriately treated to minimise potential adverse noise impacts from this existing operation.

Comment: The proposal is located on Princes Highway and the units are required to be acoustically treated to minimise road noise impacts in accordance with SEPP Infrastructure requirements. Furthermore, the proposal has been amended and the number of bedrooms fronting Princes Highway have been reduced and further setback from the road. Therefore, it is considered that the potential conflict between land uses will be satisfactorily minimised.

Issue 8: Overshadowing Impacts

Comment: The proposed building will have minimal overshadowing impacts to adjoining residential properties, specifically at mid-winter as discussed in the assessment of RDCP 2011. In this regard, at mid-winter the proposal will primarily impact the Princes Highway to the west and the Sydney Water Channel to the south. The proposal will not have any overshadowing impacts to No. 29 Hayburn Street between 9am and 3pm at mid-winter.

#### Issue 9: Construction Noise & Dust impacts

Comment: Standard conditions are included restricting hours of construction. In addition, standard conditions require dust management and minimisation of vibration impacts. It is inevitable that some noise impacts will result to immediately adjoining properties during the construction phase, however subject to compliance with conditions the noise and dust impacts will be minimised.

#### Issue 10: Traffic Impacts

Comment: This issue has been addressed in the "Impacts" section of the report. Traffic impacts associated with the development are considered to be minimal, with many of the movements from the site expected to be carried out using public transport and walking. Furthermore, the proposal is generally in keeping with the density requirements of the council's policies, and potential impacts have been considered in the strategic planning for the locality.

### **S.79C(1)(e) - Public interest**

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

### **S94 Contribution towards provision or improvement of amenities or services**

A Section 94 Contribution Payment of \$309,466.55 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

### ***Civil Aviation Act, 1988***

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

### **Civil Aviation (Building Control) Regulations 1988**

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

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

The subject site is affected by the 15.24m building height Civil Aviation Regulation. The proposed building has a maximum height of 30.45m to AHD, and therefore the proposal was referred to Sydney Airports for comment. Sydney Airports approved the proposed height up to RL30.5m to AHD subject to conditions. The recommended conditions have been included in the draft Notice of Determination.

## **Schedule 1 - Draft Conditions of consent**

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## General Conditions

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

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

Plan/Dwg No.	Issue No.	Dated	Received
<b>ARCHITECTURAL PLANS–Project No. 14-081 prepared by Urban Link</b>			
Site / Site Analysis Plan Drawing No. 01	Issue E	06.05.2016	12.05.2016
Site Context Drawing No. 02	Issue E	06.05.2016	12.05.2016
Basement 1-3 Drawing No. 03	Issue J	14.06.2017	21.06.2017
Ground Floor Plan Drawing No. 04	Issue J	14.06.2017	21.06.2017
Ground Floor Plan (6m Road Widening) Drawing No. 04a	Issue C	14.06.2017	21.06.2017
Level 1 Drawing No. 05	Issue J	14.06.2017	21.06.2017
Level 2 & Level 3 Drawing No. 06	Issue J	14.06.2017	21.06.2017
Level 4 & Level 5 Drawing No. 07	Issue J	14.06.2017	21.06.2017
Level 6 & Roof Terrace Drawing No. 08	Issue J	14.06.2017	21.06.2017
South Elevation Drawing No. 09	Issue J	14.06.2017	21.06.2017
North Elevation Drawing No. 10	Issue J	14.06.2017	21.06.2017
East & West Elevations Drawing No. 11	Issue J	14.06.2017	21.06.2017
Streetscape & Driveway Section Drawing No. 12	Issue J	14.06.2017	21.06.2017
Section A Drawing No. 13	Issue J	14.06.2017	21.06.2017
Section B Drawing No. 14	Issue J	14.06.2017	21.06.2017

Section C Drawing No. 15	Issue J	14.06.2017	21.06.2017
Sections D & E Drawing No. 16	Issue J	14.06.2017	21.06.2017
Sections F & G Drawing No. 17	Issue J	14.06.2017	21.06.2017
Section H Drawing No. 17a	Issue J	14.06.2017	21.06.2017
Proposed Tree – At Princes Hwy (Tree Foliage Diagram) Drawing No. 70	Issue C	14.06.2017	21.06.2017
Additional Sketch Model Views Drawing No. 22	Issue J	14.06.2017	21.06.2017
<b>MATERIALS &amp; FINISHES</b>			
Photomontage & Schedule of Finishes. Drawing No. 21	Issue J	14.06.2017	21.06.2017
<b>LANDSCAPE PLANS –Project No. 1616 prepared by Melissa Wilson Landscape Architect</b>			
Landscape Plan & Level 06 Roof Plan. Drawing No. Ls01	Issue C	07.06.2017	21.06.2017

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. BASIX Commitments  
The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 666174M\_02 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
Note: For further information please see <http://www.basix.nsw.gov.au>.
6. Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, or other modifications shall not be undertaken without first obtaining approval from Council under Section 96 of the EP&A Act. This includes the fitting of any form of doors and/or walls.
7. This approval is not to be construed as permission to erect any structure on or near a

boundary contrary to the provisions of the Dividing Fences Act.

8. Excavation, filling of the site or construction of retaining walls are not permitted unless approved by a separate Development Consent and authorised by a subsequent construction certificate.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
10. A separate approval is required for Strata Subdivision.
11. The balconies shall not be enclosed at any future time without development consent.

## **Development specific conditions**

The following conditions are specific to the Development Application proposal.

### 12. NSW Water

Compliance with the General Terms of Agreement issued by the NSW Office of Water by letter dated 15 December 2016, as follows:

A1 An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

A2 The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

A3 Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10% above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- ii) any elevated water table is more than 1.0m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- iii) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

A4 Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.



A5 DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report – which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

#### Prior to Excavation

A6 The following shall be included in the initial report:

- a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
- c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. (DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.)

A7 The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

A8 Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

A9 Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering

authorisation.

A10 A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A11 A copy of a valid consent for the development shall be provided in the initial report.

A12 The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report.

The disposal of any contaminated pumped groundwater (sometimes called 'tailwater') must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

A13 Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During Excavation

A14 Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

A15 Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

A16 Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

A17 Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

A18 Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

A19 The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

A20 Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

#### Following Excavation

A21 Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- a) details of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

A22 The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

### 13. Roads and Maritime Services (RMS) Requirements

The following conditions imposed by RMS in their letter of concurrence dated 18 December 2015 must be complied with:

- (a) All new buildings and structures, together with any improvements integral to the future use of the site must be wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary.
- (b) The design and construction of the gutter crossing on Princes Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

(Advisory note: the driveway and vehicle crossover will need to be appropriately aligned).

- (c) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS2890.6-2009. In accordance with AS 2890.1- 2004, the proposed driveway shall be a maximum gradient of 1 in 20 (5%) for the first 6m into the site. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (d) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (e) All vehicles are to be wholly contained on site before being required to stop.
- (f) All vehicles are to enter and leave the site in a forward direction.
- (g) The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (h) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage on Princes Highway are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (i) The proposed development should be designed such that road traffic noise from Princes Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- (j) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.
- (k) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.
- (l) All works/signposting associated with the subject development shall be at no cost to Roads and Maritime.

14. Sydney Airports Requirements

Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 30.1 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure (including construction cranes, etc.) is to exceed this height without further approval from Sydney Airport Corporation Limited.

Sydney Airport requires that the plants located at the top of the building must be maintained to a maximum height of 30.5m AHD.

Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

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

Note: Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

15. Sydney Water

- (a) The proposal must be designed and constructed in accordance with the requirements of Sydney Water detailed in their letter dated 12 January 2016, with relevant matters being addressed in the Construction Certificate plans and documentation and complied with prior to issue of the Occupation

Certificate:

- (i) Sydney Water's guidelines for "*Building over and adjacent to stormwater assets*" are applicable and must be complied with.
  - (ii) No building or permanent structure is to be constructed within 1m from the outside wall of the stormwater asset or within the Sydney Water easement.
  - (iii) Permanent structures include (but are not limited to) basement car park, hanging balcony, roof eaves, hanging stairs, stormwater pits, stormwater pipes, etc. This clearance requirement would apply for unlimited depth and height. Appropriate cross sections and elevations drawings are to be provided to ensure that these clearance requirements are met.
  - (iv) All modifications as proposed in the Flood Impact Assessment dated October 2015 by BMT WBM Pty Ltd are to be implemented. Details of these modifications are to be submitted to Sydney Water for review when lodging the Section 73 Application.
  - (v) Fencing arrangements along the Sydney Water's stormwater channel are to be submitted to Sydney Water for review at the Section 73 application phase.
  - (vi) If the development has intention to make direct stormwater connection to Sydney Water's system or any other works on stormwater assets then these details are to be submitted to Sydney Water for review.
- (b) Prior to commencement of demolition of any structures located within Sydney Water land, approval must be obtained from Sydney Water for these works (if required).

16. Balcony encroachments into Sydney Water Land

- (a) The proposal includes some minor balcony encroachments into the adjoining Sydney Water property, being Lot 1 in DP 242298, as recommended by the Council's Design Review Panel.
- (b) Prior to issue of the Construction Certificate for the relevant stage of works, the applicant must obtain written consent from the land owner of Lot 1 in DP 242298 for the encroachments into the adjoining site detailed in (a) above and shown in the plans listed in Condition 2 of this consent.
- (c) If owners consent for the encroachments is not provided, then the plans submitted with the Construction Certificate for the relevant stage of works must demonstrate that the proposal will be located wholly within the subject site (Lot 10, DP 5683) and that it does not encroach onto any adjoining land.

*Note: It is recommended that the applicant / developer also seek approval from Sydney Water for landscape planting works to be carried out within Sydney Water land located between the subject site and the Channel.*

17. Land Dedication

- (a) That part of the site marked in yellow and identified as "*Stormwater (SP2)*" on the "*Land Reservation Acquisition Map*" in Rockdale Local Environmental Plan 2011 must be dedicated to Sydney Water.
- (b) The dedication / subdivision required by (a) above must be registered with Land and Property Information (LPI), and proof of lodgement of the signed Subdivision (including any associated s88B Instrument) provided to Council's Director of City Futures, prior to issue of the Occupation Certificate.

18. Ausgrid Requirements

The following Ausgrid requirements must be satisfied:

- (a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements.
- (b) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of *NS156: Working Near or Around Underground Cables* (Ausgrid, 2010).
- (c) The development must comply with both the Reference Levels and the precautionary requirements of the *Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz - 3 kHz* (ARPANSA, 2006).

19. Alternative Ground Floor Plan - Following RMS Road Widening

Should the RMS road widening proceed, then the front setback area must be modified to generally reflect the new site boundary as shown in Plan with Title "*Ground Floor Plan (6m Road Widening)*", Project Number 14-081, Drawing No. 04a (Issue C), dated 7 April 2017 and prepared by Urban Link.

The modifications must ensure that the following matters are complied with:

- 1. The tree required to be planted within the front setback area as shown in Drawing No. 04a (Issue C) must be retained. If the tree is damaged, or required to be removed, a replacement tree must be planted within 3 months of the completion of road widening works or completion of works to the frontage of this site, whichever is first.
- 2. The driveway must retain adequate space for a minimum of 2 vehicles to queue within the site for vehicles entering the basement from Princes Highway.

20. Plans & Documentation - Compliance prior to issue of the Construction Certificate

The following matters must be addressed in the plans and documentation submitted with the Construction Certificate and resolved prior to issue of the Construction Certificate:

- (a) The proposal must include densely foliating shrubs at least 1.5m in height at roof top level to minimise adverse wind impacts in accordance with the recommendations contained in the Pedestrian Wind Environment Statement prepared by Windtech (dated 9 June 2017). The use of impermeable screening at roof top level is not supported and would be subject to separate approval.
- (b) The privacy screens located in the eastern elevation of the balconies for Units G06 and 106 shall be constructed using fixed horizontal louvres which face in an upward direction to prevent any overlooking toward the adjoining property to the east, however that will permit sunlight to penetrate into the balconies and living areas.
- (c) The high-light windows as shown in the plans shall have a minimum sill height of 1500mm above the finished floor level.
- (d) The eastern balcony for Unit 406 shall be deleted and the balustrade removed. The resulting area will be non-trafficable and become a flat roof for that part of the unit below.
- (e) Full details of the materials and specifications for the louvres proposed within the front northern balconies and rear northern balconies must be provided to,



and approved by, Council's Director of City Futures prior to issue of any Construction Certificate. These louvres must be fixed in a manner that ensures privacy impacts to adjoining properties are minimised, and must be of a high quality.

- (f) A materials sample board must be submitted to, and approved by, Council's Director of City Futures;
- (g) Glazing proposed for all and/or parts of the balcony balustrades within the eastern and northern elevations of the development must be obscure / opaque glazing. The glazing may not be translucent.
- (h) Planter beds adjacent to windows in the northern elevation of Units 401, 501 and 601 must be designed as follows:
  - (a) Planter beds will be a 600mm wide and 600mm deep to allow someone at the window to reach all parts of the planter.
  - (b) Windows adjacent to the planter beds will be allowed to be opened fully, however must be fitted with a security screen compliant with Clause D2.24 of the BCA for suitable fall prevention.
  - (c) Windows adjacent to planter beds will have a child resistant release mechanism to allow the screen to slide or hinge out of the way when the planter is required to be maintained. The child resistant release mechanism will be compliant with Clause D2.24 of the BCA.
  - (d) The planter will be at Sill height (1000mm above floor level) to provide a suitable barrier to prevent falls compliant with Clause D2.24 of the BCA.
- (i) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (j) Ceiling Heights
  - (i) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights for non-habitable areas shall be a minimum of 2.2m as measured vertically from finished floor level to the underside of the ceiling.
  - (ii) Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
- (k) Elevator size - All passenger lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
- (l) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system are proposed within the roof top level landscape area and must be appropriately designed and screened by landscape planting.
- (m) Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the residential lobby and to the basement levels.
- (n) The air-conditioning units required under SEPP BASIX shall not be fixed to the external walls of the balcony or building and must be located in a position that is not easily visible from the public domain.

- (o) The plans shall include the use of LED lighting to communal areas and rainwater harvesting at roof top level in accordance with commitments made during the assessment process.
- (p) All plumbing, shall be concealed within the brickwork / facade of the building.
- (q) Garbage Rooms - Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.

21. Safer by Design

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

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
- b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- d) Graffiti resistant materials shall be used to ground level external surfaces.
- e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.

22. Waste & Recycling Collection / Removalist Drop-off's & Pick-ups - Operational Requirements

- (a) Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.
- (b) Waste & recycling collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Princes Highway or elsewhere within the site.
- (c) Waste and recycling may collected by a private waste contractor. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate. The company engaged must ensure that all recycling is collected separately from waste.
- (d) Waste & recycling collection must be undertaken during off-peak times (i.e. waste collection must not be undertaken during Clearway times for the eastern side of Princes Highway, which is currently 3pm to 7pm, Monday to Friday).
- (e) The maximum size truck permitted to access the site is a Small Rigid Vehicle (SRV).

- (f) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

## 23. Parking Provision & Allocation

- a) A total of 55 car parking spaces, a minimum of 5 bicycle parking spaces, a minimum of 4 motorcycle parking spaces, 1 dedicated car wash bay and 1 dedicated SRV loading bay must be provided within the basement levels of the development. The parking must be allocated in accordance with the minimum and maximum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

<b>Dwelling Size / (Proposed No.)</b>	<b>Required</b>
1 bed dwellings (15 units)	0.6 spaces / dwelling = 9 spaces (min.)
2 bedroom dwellings (30 units)	0.9 spaces / dwelling = 27 spaces (min.)
3 bedroom dwellings (3 units)	1.4 spaces / dwelling = 4.2 spaces (min.)
<b>Total Car Parking Spaces for Residential Units</b>	<b>41 spaces (min.)</b> <b>(including 5 accessible spaces)</b> <b>(A maximum of 47 spaces may be allocated to the residential tenancies, including a maximum of 1 space per 1 &amp; 2 bedroom dwelling and a maximum of 2 spaces per 3 bedroom dwelling)</b>
Visitor	1 space / 5 dwellings = 8 spaces (including 1 accessible space) <i>Note:</i> This reduced rate is permitted for the Rockdale Town Centre in accordance with RDCP 2011).
Bicycle (Res. + Com.)	1/10 units = 5 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 4 spaces (Min.)
Carwash Bay	1 car wash bay (dedicated space)
SRV Loading Bay	1 SRV Loading Bay (dedicated space)

### *Notes:*

- *All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*
- *Tandem parking spaces must only be allocated to a single residential unit.*
- *The car-wash bay must be connected to the Sydney Water sewer system in*

*accordance with Sydney Water requirements.*

- *This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

24. Parking, Loading & Vehicular Access - Design & Operation

The design and construction of the off-street car & bicycle parking facilities and loading bay shall comply with the following requirements, with details provided prior to issue of the Construction Certificate for the relevant stage of works and complied with prior to issue of the Occupation Certificate:

- (a) The design and construction of the off-street parking facilities and loading bay shall comply with Australian Standards, as follows:
  - (i) AS/NZS 2890.1:2004
  - (ii) AS2890.2:2002
  - (iii) AS2890.3:1993
  - (iv) AS/NZS2890.6:2009
- (b) The following conditions also apply to the design and provision of loading facilities within the site:
  - (i) The proposed loading bay at Basement Level 1 as shown in the approved plans must be designed to accommodate a Small Rigid Vehicle (SRV) as defined in AustRoads.
  - (ii) The development must be designed and built to ensure that a SRV can enter and leave the site in a forward direction,
  - (iii) Any vehicular path of travel to or from the loading bay shall have a minimum headroom clearance of 3.5m (to the underside of services, etc.).
- (c) The following conditions also apply to the design and provision of car parking on site, including car wash bay(s), and the adequacy of vehicular movements within the site:
  - (i) Parking spaces must not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
  - (ii) Car Wash Bay - Comply with Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.
  - (iii) Provide a minimum of 10 bicycle parking spaces for residents. The bicycle parking facilities must be class 1 or 2 in accordance with AS2890.3:1993. Bicycle parking facilities for residents shall not be Class 3 facilities.
  - (iv) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
  - (v) Design the entry gate location for the basements so that there is no effect to traffic on the road (including footpath / cycleway) from vehicle queuing at the gate, and as a minimum of 2 car space must be provided between the gate and the future property boundary, subject to

compliance with AS2890.1:2004, which may require more than 2 car space queue length.

- (vi) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.6 and commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- (vii) For parking with people with disabilities, the clearance above the parking bay shall be 2.5m minimum.
- (viii) The proposed loading bays shall be designed to accommodate a Small Rigid Vehicle (SRV) in terms of forward direction entry and exit, height clearance of 3.5m and clear swept path within the ramp.
- (ix) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- (x) Allocate all off street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

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

## 25. Management of Waste & Recycling collection

*Terms and Conditions of the Positive Covenant required to be included in the positive covenant on the site prior to issue of any Occupation Certificate:*

- (1) The existing and future owners (Registered Proprietor) of the property will be responsible for the implementation of a management plan for collection of waste and recycling from the site.

The Registered Proprietor will:

- (a) Provide separate storage and collection of waste and recycling to maximise recycling and minimise waste;
- (b) Keep the on-site waste and recycling collection area clean and free of rubbish and debris;
- (c) Maintain, the onsite waste & recycling collection area and onsite collection management agreement, so that the onsite waste & recycling collection is maintained at all time;
- (d) Carry out the matters referred to in paragraphs, (a), (b) and (c) at the proprietor's expense;
- (e) Not make any alterations to the arrangement thereof without prior consent in writing of the Council;
- (f) Permit the Council of its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the system for compliance with the requirements of this clause;
- (g) Comply with the terms on any written notice issued by the Council in respect to the requirements of this clause within the time stated on the

notice.

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

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

26. Noise from Mechanical Plant / Ventilation & Air Conditioning

- (a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.
- (b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
- (c) Residential air conditioners shall not cause ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

27. Noise Impacts & Attenuation

The plans and documentation submitted with the Construction Certificate for the relevant stage of works, must comply with the following requirements:

- (a) The submitted Acoustic Report prepared by Acoustic Noise & Vibration Solutions (Amended 28 April 2016, Ref No. 2015-427 Rev 2).
- (b) The noise requirements contained in Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007;
- (c) Compliance with the inter-tenancy flooring & wall construction requirements contained in RDCP 2011 which are as follows:
  - (i) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:
    - (A) 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
    - (B) 4 Star for timber flooring in any area.
    - (C) 5 Star for carpet in any area.
  - (ii) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
- (d) Compliance with noise mitigation measures detailed in the Acoustic Report, copied below, or additional measures if required, to ensure that noise

impacts resulting from plant and equipment within the development will not result in adverse impacts to neighbouring properties:

The following noise mitigation measures are required:

<b>Mechanical Plant</b>	<b>Installation Requirement</b>
Car Park Supply Air	§Silencer Min 2D (E29/90)* or equivalent
Car Park Exhaust Fan	§Silencer before and after fan §Silencer Min 2D (E29/90)* or equivalent §Lagged duct with min 38mm 32kg/m <sup>3</sup> acoustic insulation a minimum 10 metres into the car park

*\*Note – all silencers should be placed 1 to 2 duct diameter distance away from the fans. Specifications of silencers/ acoustic louvers are provided in the table below:*

<i>Insertion Loss of Recommended Silencers (dB)</i>								
<i>Frequency (Hz)</i>	<i>63</i>	<i>125</i>	<i>250</i>	<i>500</i>	<i>1000</i>	<i>2000</i>	<i>4000</i>	<i>8000</i>
<i>Attenuator/ Silencer</i>	<i>6</i>	<i>11</i>	<i>18</i>	<i>31</i>	<i>36</i>	<i>27</i>	<i>24</i>	<i>17</i>

- (e) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the plans and documentation submitted with the Construction Certificate satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

## 28. Street Numbering

- (a) The premises shall be provided with the following street numbers:  
Residential Lobby - 610 Princes Highway
- (b) Mail boxes must be installed in a covered area in front of the lobby entrance, or within the residential lobby if approved by Australia Post. The letterboxes must be lockable.
- (c) Prominent street numbers are to be displayed on each retail premises and the residential lobby, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

## 29. Storage

Prior to issue of the Construction Certificate for the relevant stage of works:

- (a) The plans submitted with the Construction Certificate shall demonstrate that accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):

- (i) The minimum storage area to be provided for each dwelling shall be:
- Studio / 1 bed unit = 6m<sup>3</sup>
  - 2 bed unit = 8m<sup>3</sup>
  - 3 bed unit = 10m<sup>3</sup>

- (ii) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.

- (iii) The storage areas located within the basement levels shall be of metal



construction (mesh and/or solid metal) and must be provided with lock and key.

(b) The storage areas required by (a) above must be provided in accordance with the above requirements prior to issue of the Occupation Certificate.

30. Services

(a) Fire Boosters - The fire hydrant booster valves must not be relocated from the position shown in the approved plans, and shall also be enclosed in a cabinet. The cabinet must be provided with appropriate locks and signage in accordance with AS2419.1. Any relocation of the Fire Booster location must be approved in writing by Council's Director of City Futures. A S96 application may be required.

(b) Substation - if a substation is required, written approval for its location must first be obtained from the Director or City Futures at Bayside Council. Alternatively, a S96 application is required to ensure that the position of the substation is appropriate given the constrained nature of the site.

(c) Antenna / Satellite Dishes - The proposal may include the installation of a single master antenna for the development in accordance with Controls C1 and C2, Part 4.7 of RDCP 2011. No further antennas or satellite dishes may be installed without obtaining further approval (unless permitted as exempt development).

31. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:

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

32. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;

- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
33. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
34. Landscape Plans -  
The Landscape Plans prepared by Melissa Wilson must be amended, submitted to and approved by Council's Director of City Futures prior to issue of the Construction Certificate.

The amended Landscape Plans must include:

- (a) **Maintenance Schedule**  
A maintenance schedule for a period of 12 months, which covers watering, fertilizing & weeding.  
All plants must be watered at a regular intervals throughout; at planting stage, during construction stage and during the maintenance period stage, if any plant has suffered during these stages, they're to be replaced with similar species.  
The fertiliser regimes have been devised to provide sufficient long-term fertility for the vegetation type. Weeding to be controlled by removing weed growth that may occur or recur throughout turfed, planted and mulched areas. Continue eradication throughout whilst ensuring organic and rock mulched surfaces have been maintained in a weed free and tidy condition.
- (b) **Irrigation Plan & Design**  
An irrigation plan comprising of subsurface drip systems and automatic timers with rainwater / soil moisture sensor controls; where possible storm water runoff will be directed to the lawn and garden beds. Irrigation will be provided to all soft landscape areas and will be specified in an updated landscape plan.
- (c) **Landscape Details including Planter Designs, as follows:**
  - (i) The species selection and location of planting shall maximise winter solar access and summer shade to dwellings. Modifications to planting shall, at minimum, include the following (unless otherwise agreed in writing by the Director of City Futures):
    - (1) The Eucalyptus citriodora proposed in the front setback shall be swapped for a 400L Alloxylon flammeum (Tree Waratah), which will provide good colour and privacy;
    - (2) One (1) additional 400L Alloxylon flammeum (Tree Waratah) shall be provided within the first 6m of the front setback of the

- site which does not conflict with the on site detention system;
- (3) Podocarpus elatus proposed along the rear boundary fence shall be underplanted with shrubs such as Zieria 'Carpet Star', Scaevola 'Mauve Clusters', Dampiera stricta 'Glasshouse Glory' and Lobelia anceps. Further plantings of Opisthiolepis heterophylla (to 15m) shall be provided to assist with privacy screening;
  - (4) The plantings of Cordyline and Dianella located at the sites south-eastern corner shall be interplanted with Doryanthes excelsa Ptychosperma elegans, Linospadix monostachyos, and Walking Stick Palm (Laccospadix australasica);
  - (5) Along the driveway, the Syzigium jambos should have some taller tree plantings including Agonis flexuosa 'Pink Flamingo' (7-10m)
  - (6) The deep soil area located at the rear north-eastern corner of the site shall contain a minimum of one (1) and preferably more larger tree species to replace the trees removed from this part of the site. The recommended species is the Agathis robusta (Kauri Pines which grows to 20m);
- (ii) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
  - (iii) The basement carpark shall be screened using a combination of dense planting and mounding along the sites southern boundary.
  - (iv) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
  - (v) Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
  - (vi) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
  - (vii) It is to be designed to be operational for a minimum of 10 years, to cover all new gardens and lawn areas.
  - (viii) The rear part of the site must be shown in the plans as being genuine deep soil area as shown in the approved architectural plans.
  - (ix) Planter boxes constructed over podium shall be built in accordance with the following requirements:
    - (1) Ensure soil depths in accordance with Council's DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
    - (2) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter;
    - (3) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed

finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;

- (4) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation.
- (5) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

Note: The provision of landscape planting at the 'beak' tip of the building is encouraged in an amended landscape design. The overall architectural design can accommodate planting beds on levels 1-6 of the 'beak' tip area (facing Princes Highway) which will further enhance the 'Green Gateway' objectives of this part of the Rockdale Town Centre. Ideally these would be 600mm-1000mm deep custom irrigated planters constructed to accommodate a variety of native shrubs and ground covers, that can improve the overall landscape area and Streetscape appearance. Alternatively these can be side type vertical gardens, with epiphytes, including orchids – which do not require and watering or fertilising etc, just a securing mechanism on a substrate – ideally wood based.

- 35. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
- 36. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
- 37. Design Quality / Design Excellence
  - (i) In order to ensure the design quality I excellence of the development is retained:
    - (a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
    - (b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
    - (c) Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
  - (ii) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.

38. Tree Removal / Protection

- (a) All existing trees located within the site may be removed.
- (b) The *Araucaria columnaris* (Cook Pine) located within 23-27 Hayburn Avenue Rockdale may be removed as recommended in the Arboricultural Assessment Report by Tree @ Landscape Consultants dated 6 April 2016 subject to:
  - (i) The written consent of Land and Housing NSW (State Government) being provided to Council prior to commencement of work, and
  - (ii) A replacement tree of at least 45 litre pot size and capable of growing to a minimum height of five (5) metres being planted in a similar position within 23-27 Hayburn Avenue Rockdale in conjunction with the landscaping works and in an agreed location with Land and Housing NSW

39. Acid Sulfate Soils

Adopt and implement all measures for the management of acid sulfate soil given in the report titled 'Acid Sulfate Soils Assessment and Management Plan 610 Princes Highway, Rockdale NSW' prepared by Environmental Investigations dated 8 September 2015, Ref: Report E22662 AB.

40. Remediation of Land - SEPP 55

The contaminated site shall be remediated in accordance with the 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). All remediation works shall be carried out in accordance with the report titled, 'Remediation Action Plan' prepared by Environmental Investigations (EI) Australia (Report No. E22662 AC\_Rev 0) dated 8 April 2016. The remediation works shall be completed prior to issue of any Occupation Certificate.

41. Landscape Maintenance - Ongoing

- (a) The approved completed landscape works shall be maintained for a period not less than 12 months.
- (b) On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.
- (c) The landscape maintenance required by (a) above shall include the following (at minimum):
  - Irrigation system - maintenance of the required irrigation system.
  - Watering - All plants must be watered at regular intervals throughout; at planting stage, during construction stage and during the maintenance period stage, if any plant has suffered during these stages, they're to be replaced with similar species.

If the watering regime is intended to be amended the contractor must seek written approval from the superintendent immediately prior to the deferment of watering.

Watering permits: the contractor is responsible for obtaining the necessary watering permits required to carry out the watering as specified.
  - Fertilising

Generally: the fertiliser regimes have been devised to provide sufficient long-term fertility for the vegetation type and it is anticipated that all except the very high status horticultural beds such as feature plantings (entry and courtyard planting) for colour and foliage will not need regular fertiliser regimes.

Testing: additional nitrogen may be required due to drawdown effects from composts and mulches and localised waterlogging. To compensate for this, soil testing is to be carried out after 12 months to ascertain nutrient requirements.

- Compliance

Required: plant maintenance shall be deemed complete subject to the following compliance with the criteria:

(i) Repairs to planting media completed ground surfaces are covered with the specified treatment to the specified depths pests, disease, or nutrient deficiencies or toxicities are not evident.

(ii) Organic and rock mulched surfaces have been maintained in a weed free and tidy condition and to the specified depth vegetation is established and well formed plants have healthy root systems that have penetrated into the surrounding, undisturbed ground and not able to be lifted out of its planting hole vegetation is not restricting essential sight lines and signage collection and removal of litter all non-conformance reports and defects notifications have been closed out.

(iii) A plant maintenance compliance schedule should be kept from initial planting to the maintenance schedule after sign-off.

- Weeding

Generally: regularly remove, by hand, rubbish and weed growth that may occur or recur throughout turfed, planted and mulched areas. Continue eradication throughout the course of the works and during the planting establishment periods.

Weed eradication: the contractor must make allowance for a higher level of maintenance during establishment to ensure that weeds are controlled.

Herbicide use: re-application of herbicide such as Ronstar or equivalent if required.

## **Prior to issue of the construction certificate**

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

42. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$7,740.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$18.00.

43. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
44. A Frontage Works application shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of Frontage Works. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
45. A Section 94 contribution of \$309,466.55 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$237,268.65
Town Centre & Streetscape Improvements	\$12,125.92
Pollution Control	\$34,985.43
Administration & Management	\$1,495.10
Community Facilities & Services	\$23,591.45

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

46. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
47. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
48. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event and a PMF event.
49. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within the following five (5) residential units, and between these units and their allocated carparking spaces - Units 105, 205, 305, 405 & 505. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit number(s) as shown in the approved plans. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 –

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

50. Underground Placement of Existing Overhead Powerlines

- (a) All low & high voltage street mains in that section of the street/s adjacent to the development shall be placed underground prior to issue of the Occupation Certificate. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.'
- (b) Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

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

Sydney Water's Tap inTM online service is available at:

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

52. Section 138 of the Roads Act 1993

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

- (i) Construction of footpath and streetscape works; and
- (ii) Construction of a vehicular entrance.

53. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

54. Any sub-surface structure within the highest known groundwater **table / rock + 0.5m** shall be designed with a waterproof retention system (ie *Structural* tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate **for the relevant stage of works**.

A design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

*Note:*

*a. All structures that are fully or significantly below ground shall be fully*



*waterproofed to finished ground level.*

*b. After construction is completed no seepage water is to discharge to the kerb. Permanent dewatering will not be permitted.*

*c. Continuous monitoring of ground water levels may be required.*

55. Prior to the issue of a Construction Certificate, an Acoustic Report, prepared by a suitably qualified and experienced Acoustic Consultant shall be submitted to the Accredited Certifier (AC), detailing any necessary modifications to the mechanical plants in the car park to reduce the intrusion of noise and/ or vibration into occupied rooms.

56. Telstra

If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

57. As the basement floors are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

(a) Implement all recommendations contained in the report prepared by Environmental Investigations, Report No: E22662 GA, Dated 10 September 2015.

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

(c) Confirm the proposed construction methodology

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

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

58. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
59. Car Wash Bay  
A dedicated car wash bay shall be provided within the basement parking area. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
60. All basement surface runoff including car wash bay shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate. The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.
61. Stormwater Drainage System  
Prior to the issue of the Construction Certificate, *amended* detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent.

*Subsoil drainage shall be provided and designed to allow the free movement of groundwater around any proposed structure, but is not to be connected to the internal drainage system*

The design shall take into consideration of geotechnical recommendations.

The amended design shall also address the following issues:

- a. The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6 m<sup>3</sup> per 100 m<sup>2</sup> of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.
- b. To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls.
- c. DCP requires the provision of on-site detention. Concept drainage design plans, supporting calculations and design certification will be required to be

submitted in accordance with the design, documentation and certification requirements of DCP and Rockdale Technical Specification – Stormwater Management.

d. The proposed basement ramps to have a crest level to prevent inundation from gutter flows.

e. To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.

## **Prior to commencement of works**

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

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

63. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

64. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

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

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

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

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

65. Vibration Monitoring

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for

such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

66. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
67. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
68. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
69. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
70. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.  
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.The overhead structure must consist of a horizontal platform of solid construction and

vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

71. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

### **During demolition / excavation / construction**

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

72. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
73. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
74. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
75. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

76. Demolition operations shall not be conducted on the roadway or public footway or

any other locations, which could lead to the discharge of materials into the stormwater drainage system.

77. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
78. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- i. Prior to commencement of works showing the area of the land, the area affected by the Sydney Water Easement, and the proposed area affected by excavation works;
  - ii. After excavation work for the footings and basement levels, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - iii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iv. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - v. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - vi. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
79. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

80. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
81. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
82. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
83. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
84. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.



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

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
85. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
86. Any soil disposed of off-site shall be classified in accordance with the procedures in the NSW Environment Protection Authority's Environmental Guidelines: Waste Classification Guidelines (2014).

## **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

87. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
88. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
89. Prior to issue of the Occupation Certificate, a by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
90. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
91. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
92. The underground placement of all low & high voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
93. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
94. Prior to issue of the Occupation Certificate, the following vehicular access, parking and movement conditions must be satisfied:
  - (a) A total of 55 off-street car spaces, a minimum of 4 motorcycle spaces and a minimum of 6 bicycle parking spaces, shall be provided in accordance with

the submitted plan and shall be linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

- (b) Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
- (c) The width of the double driveway at the boundary shall be a maximum of 6 metres at the boundary.
- (d) Convex mirrors are to be installed on all ramps and nearby the loading bay to provide increased sight distance for vehicles.
- (e) The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage.
- (f) Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking.  
Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to protrude 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier..
- (g) Traffic signs shall be installed to give priority to incoming vehicle within the single lane section of ramp prior to issue of any Occupation Certificate.
- (h) A dedicate car wash bay shall be provided in accordance with the requirements of Conditions 23 and 24(c).

95. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.

96. Dedication to Sydney Water for Stormwater Drainage

Prior to issue of the Final Occupation Certificate:

- (a) A plan of Subdivision for the land dedication to Sydney Water, being that part of the site marked in yellow and identified as "SP2" in the "*Land Reservation Acquisition Map*" in RLEP 2011, shall be registered with the Land and Property Management Authority.
- (b) Council requires proof of lodgement of the signed Subdivision (including any associated s88B Instrument) with the Land Titles Office.

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

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

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

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.

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

99. Noise Requirements - Compliance

- (a) Prior to issue of the Occupation Certificate, a Certificate of Compliance prepared by a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority (PCA) validating that:
- (a) Noise emissions from all mechanical services plant including fans, compressors, condensers, air conditioners etc. to the nearest residential receiver do not exceed the noise emission criteria provided within the DA Acoustic Assessment report prepared by Acoustic Noise and Vibration Solutions P/L submitted with the Application;
  - (b) The internal noise environment within all units complies with all legislative / policy requirements, and includes all acoustic treatments to minimise noise impacts, as detailed in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L (Amended on 28 April 2016, Ref No. 2015-427, Rev 2), and submitted with the application, and all other requirements contained in Condition 27 of this consent.
- (b) If Council is not the PCA, a copy of the Certificate of Compliance required by (a) above must be submitted to Council prior to issue of the Occupation Certificate.

100. Landscape Completion / Certification / Ongoing Management

Prior to issue of the Occupation Certificate:

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

The certificate shall also specifically confirm that the proposal complies with the following (including but not limited to):

- (i) The rear area of the site has been provided as genuine deep soil. In this regard, all surface areas must be provided with permeable paving / landscape planting as shown in the plans and must not be limited in depth by basement or other structures;
- (ii) The extent of the planting strip provided adjacent to the driveway along the northern side boundary of the site is as shown in the approved plans;
- (iii) The required tree has been planted in the front setback area;
- (iv) The requirements of Condition 34 have been complied with;
- (v) A minimum soil depth of 800mm is provided for all planter beds on the podium levels;
- (vi) A fully automated irrigation system has been installed to the podium landscaping; and

- (vii) Podium landscaping and paved areas are drained into the stormwater drainage system.

101. A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.
102. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
103. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
104. A benchmark shall be established adjacent to the site to Australian Height Datum to enable comparison to the flood standard.
105. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
106. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 6 November 2014.
107. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
- (a) the stormwater detention facility to provide for the maintenance of the detention facility; and,
  - (b) the waste and recycling storage / collection area.
108. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

109. The outside finished ground level shall be constructed a minimum of 300mm below the habitable floor level for the whole building perimeter.
110. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".

## Prior to issue of subdivision certificate

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

111. The dedication to Sydney Water of that part of the site marked in yellow and identified as "*Stormwater (SP2)*" on the "Land Reservation Acquisition Map" in Rockdale Local Environmental Plan 2011 must be dedicated to Sydney Water. These provisions are to be put into effect prior to release of the Subdivision Certificate.
112. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
113. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
114. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

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

## Roads Act

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

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

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

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

116. Where applicable, the following works will be required to be undertaken in the road

reserve at the applicant's expense:

- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
117. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
118. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
119. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
120. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
121. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.
122. All works associated with the proposed development shall be at no cost to the Council or RMS.

## **Development consent advice**

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

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are

required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

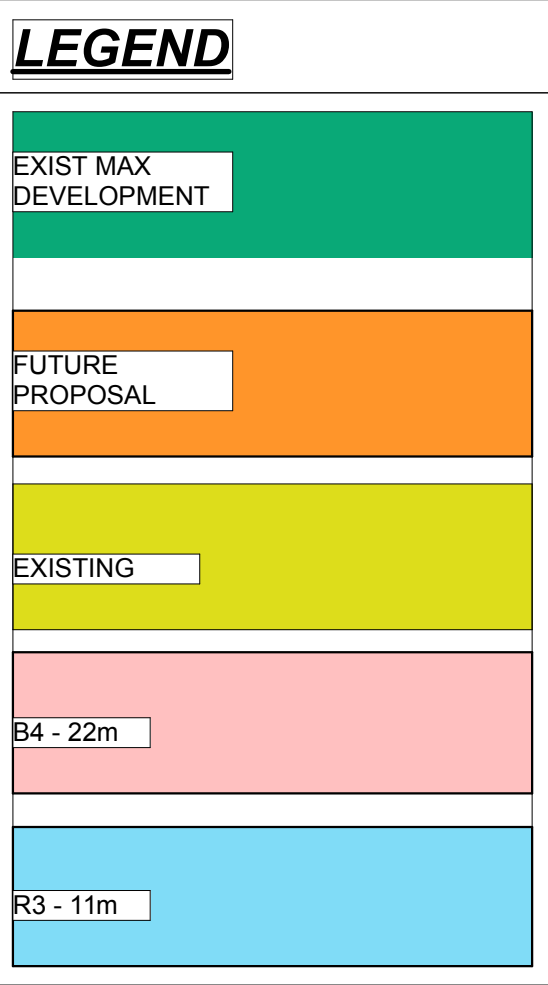
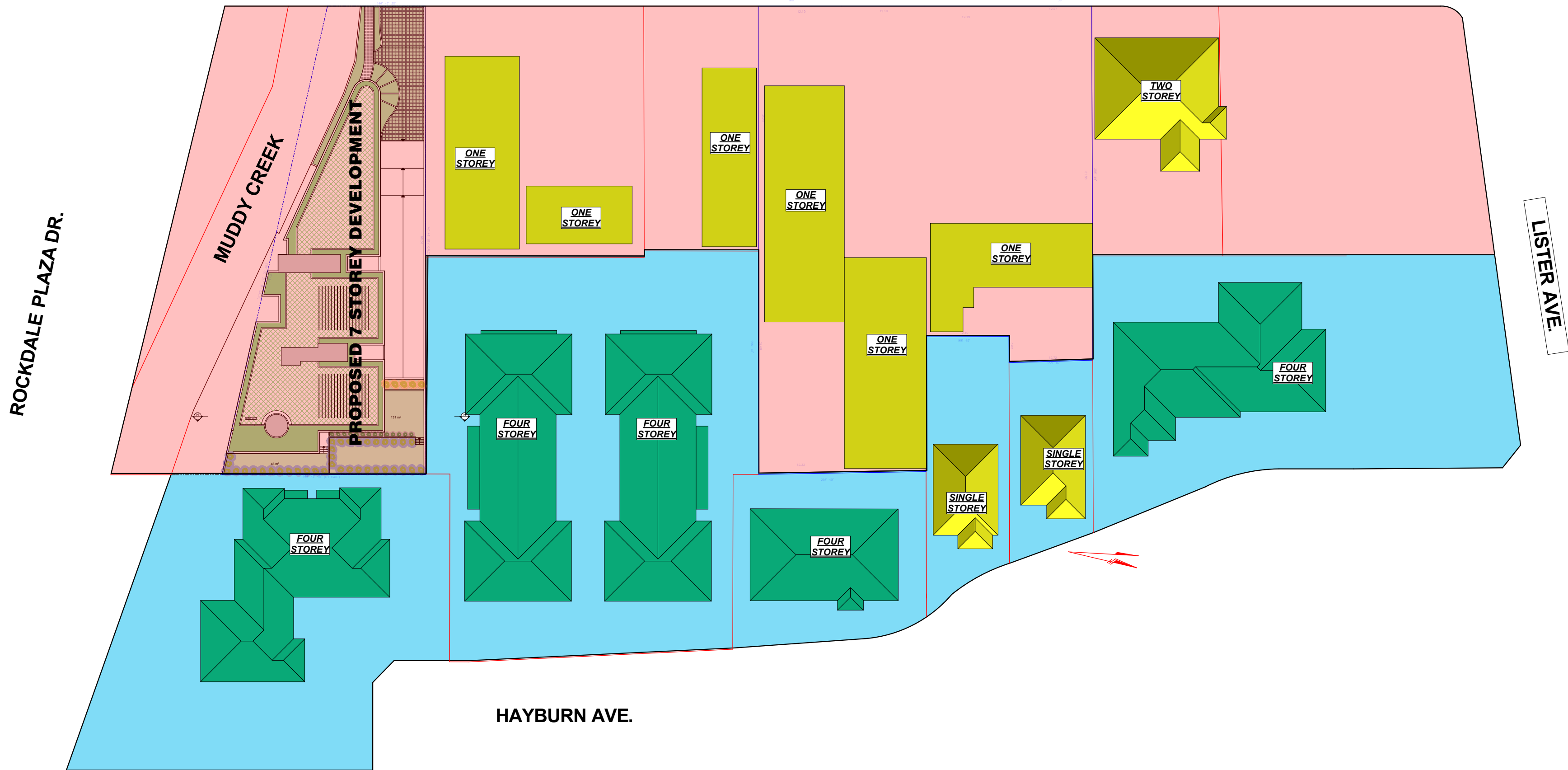
- c. In order for the final Subdivision Certificate to be signed and released by Council, the following must occur:
- i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into two (2) lots;
  - iii) a Section 88B Instrument which contains the positive covenants for the on-site detention system and waste / recycling collection must be submitted. The 88B Instrument should also provide a space for Council's authorised person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- d. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

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

- e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- f. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

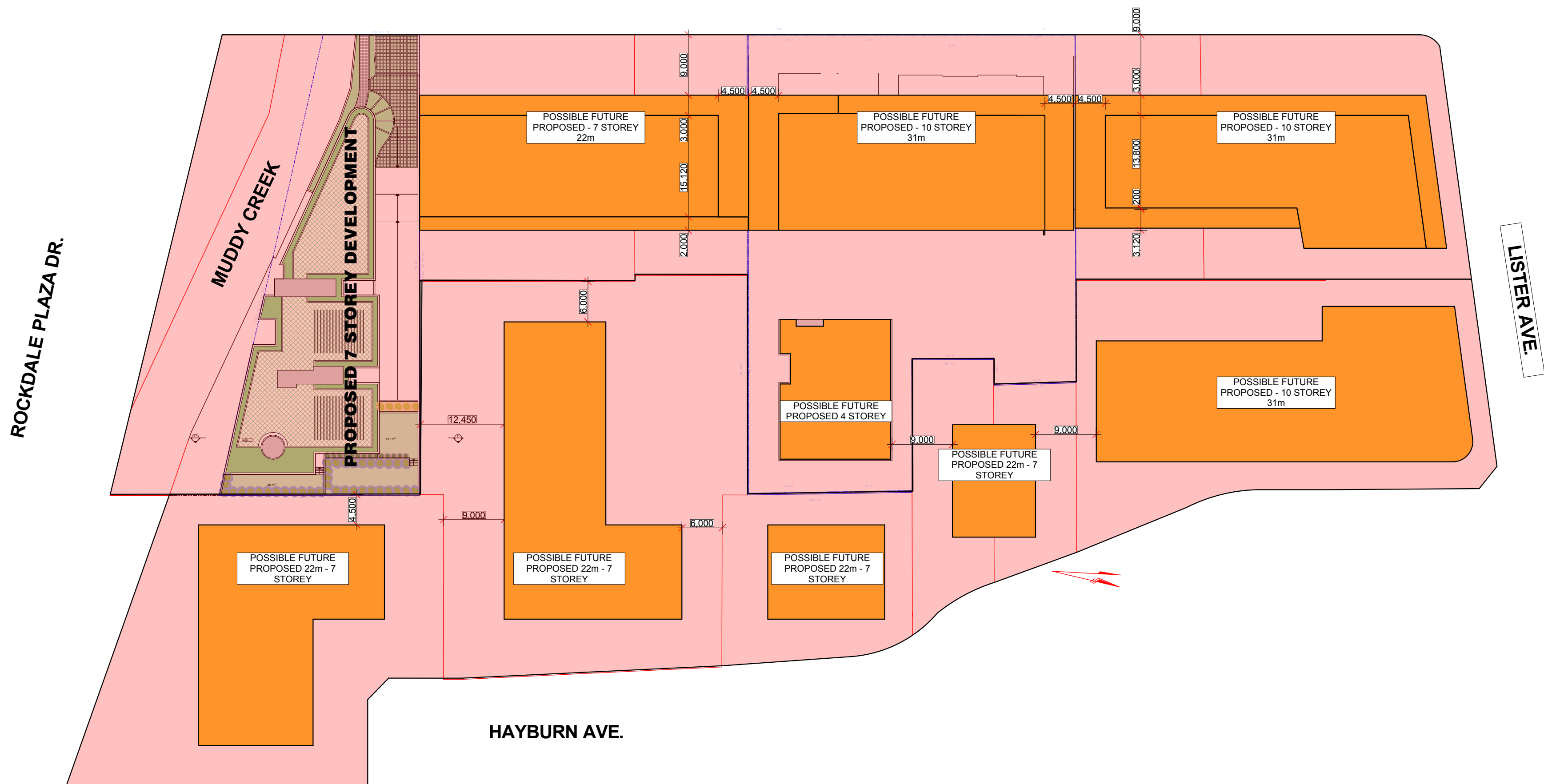


PRINCES HWY



SITE CONTEXT PLAN (CURRENT PROPOSAL)  
SCALE 1:500 @ A1

PRINCES HWY



SITE CONTEXT PLAN (FUTURE DEVELOPMENT)  
SCALE 1:500 @ A1

Issue	Amendment	Date
B	GENERAL REVISION	2016.01.14
P01	CONSULTANT COORDINATION	2016.02.01
P02	DRP COMMENTS IMPLEMENTED	2016.02.08
P03	DRP COMMENTS IMPLEMENTED	2016.03.16
C	DRP COMMENTS IMPLEMENTED	2016.03.31
D	DRP COMMENTS IMPLEMENTED	2016.04.07
P04	CONSULTANT COORDINATION	2016.04.22
E	DRP & COUNCIL COMMENTS IMPLEMENTED	2016.05.06

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**URBAN LINK**  
a r c h i t e c t u r e

Shop 8-11 320A Liverpool Road Enfield NSW 2136  
P.O. BOX 288 ENFIELD NSW 2136  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

NOMINATED ARCHITECT: YOUSSEF EL-KHAWAJA- 8933

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DEVELOPMENT APPLICATION	
project	610 PRINCES HWY, ROCKDALE
client	URBAN LINK PTY LTD
drawing	SITE CONTEXT

project no	14-081
scale	as shown@ A1
date	01/02/16
drawn	LJ
checked	TJ
issue E	Page 81





SOUTH ELEVATION  
SCALE 1:100 @ A1

- NatHERS Specs:**
- Floor slabs: Concrete.
    - R1.5 underfloor insulation to units G01-G03, & G05.
    - R1.0 to unit G04.
    - R0.5 Underfloor insulation to units G06-G07.
    - No insulation necessary to remainder.
  - Exterior walls:
    - Wall system with R-value (at least R2.0). Rating (R2.0) includes construction materials. E.g – 190mm concrete wall + plasterboard with Foil + R1.2 insulation in cavity.
    - "Exterior walls" = All unit walls that are not party walls to other units or enclosed hall way. Unit walls bordering stairwells & lift shaft to be insulated Hebel or similar in R-value (R2.0).
  - Glazing:
    - Low-E glass (U-Value: 4.70, SHGC: 0.63) to units G01-G05, 401, 501, & 601.
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    - Standard single glazed clear glass modelled (U-Value: 6.57, SHGC: 0.74) to remainder.
  - R2.5 ceiling insulation to all units with ceilings with exposed slabs over (eg. balcony overhead).
  - R2.5 ceiling insulation to all units with ceilings to concrete roof.
  - External & roof walls modelled with medium colour finishes.

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW.	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
J	ISSUE FOR DA AMENDMENT.	14.06.2017

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**URBAN LINK**  
architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

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Nominated Architects: Ziad Boumehem Reg no 8008 | Yousef El Khawaja Reg no  
8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project  
610 PRINCES HWY,  
ROCKDALE

client  
URBAN LINK PTY LTD

drawing  
SOUTH ELEVATION

project  
no 14-081

scale  
as shown@ A1

date  
07/04/17

drawn  
AY

checked  
MB, TJ



drawing no  
09

issue J

Page 82





NORTH ELEVATION  
SCALE 1:100 @ A1

**NatHERS Specs:**

- Floor slabs: Concrete.
  - R1.5 underfloor insulation to units G01-G03, & G05.
  - R1.0 to unit G04.
  - R0.5 Underfloor insulation to units G06-G07.
  - No insulation necessary to remainder.
- Exterior walls:
  - Wall system with R-value (at least R2.0). Rating (R2.0) includes construction materials. E.g – 190mm concrete wall + plasterboard with Foil + R1.2 insulation in cavity.
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- R2.5 ceiling insulation to all units with ceilings with exposed slabs over (eg. balcony overhead).
- R2.5 ceiling insulation to all units with ceilings to concrete roof.
- External & roof walls modelled with medium colour finishes.

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW.	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
J	ISSUE FOR DA AMENDMENT.	14.06.2017

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architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

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8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project  
no  
610 PRINCES HWY,  
ROCKDALE

client  
URBAN LINK PTY LTD

drawing  
NORTH ELEVATION

project  
no  
14-081

scale  
as shown @ A1

date  
07/04/17

drawn  
AY

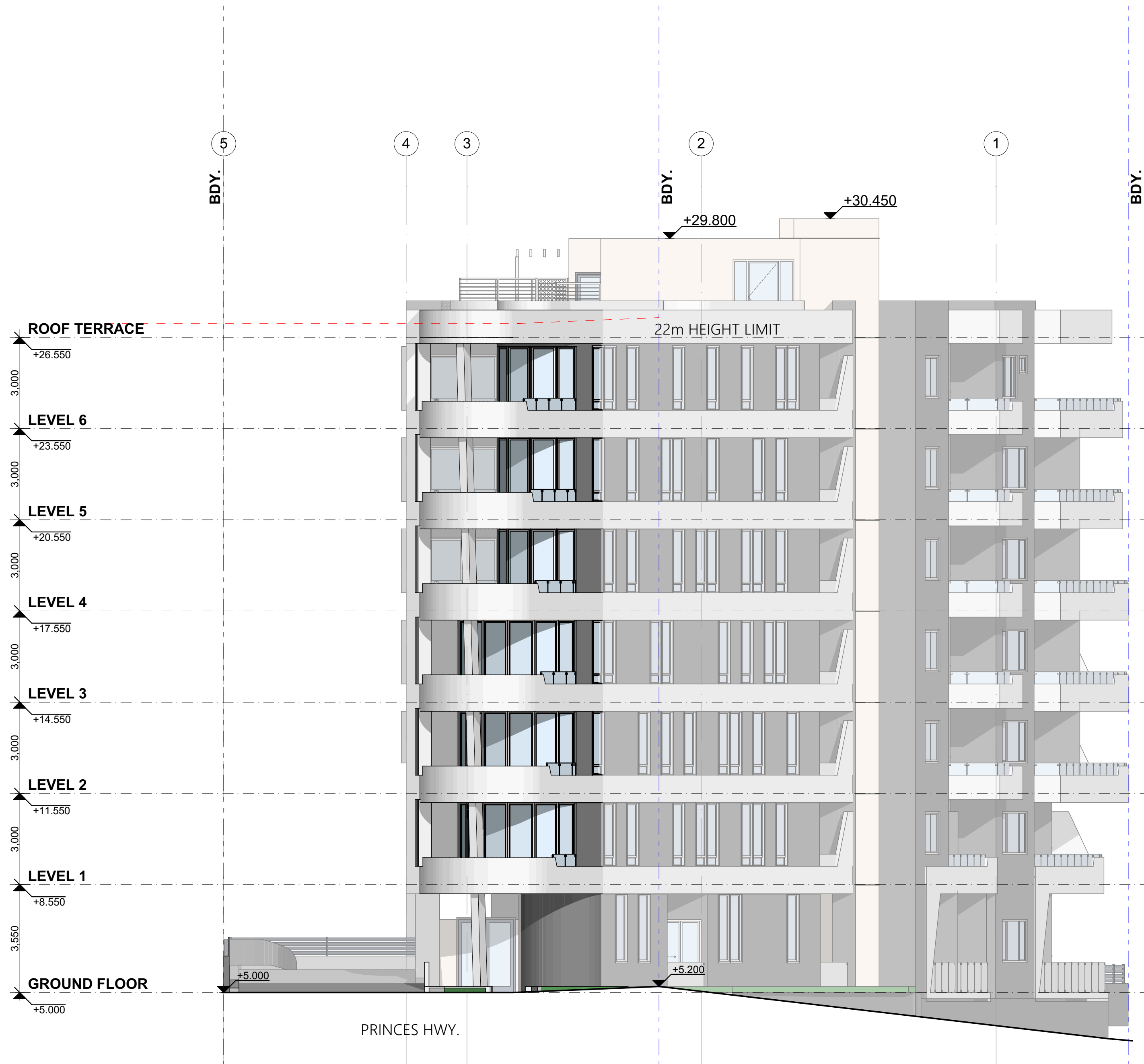
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MB, TJ



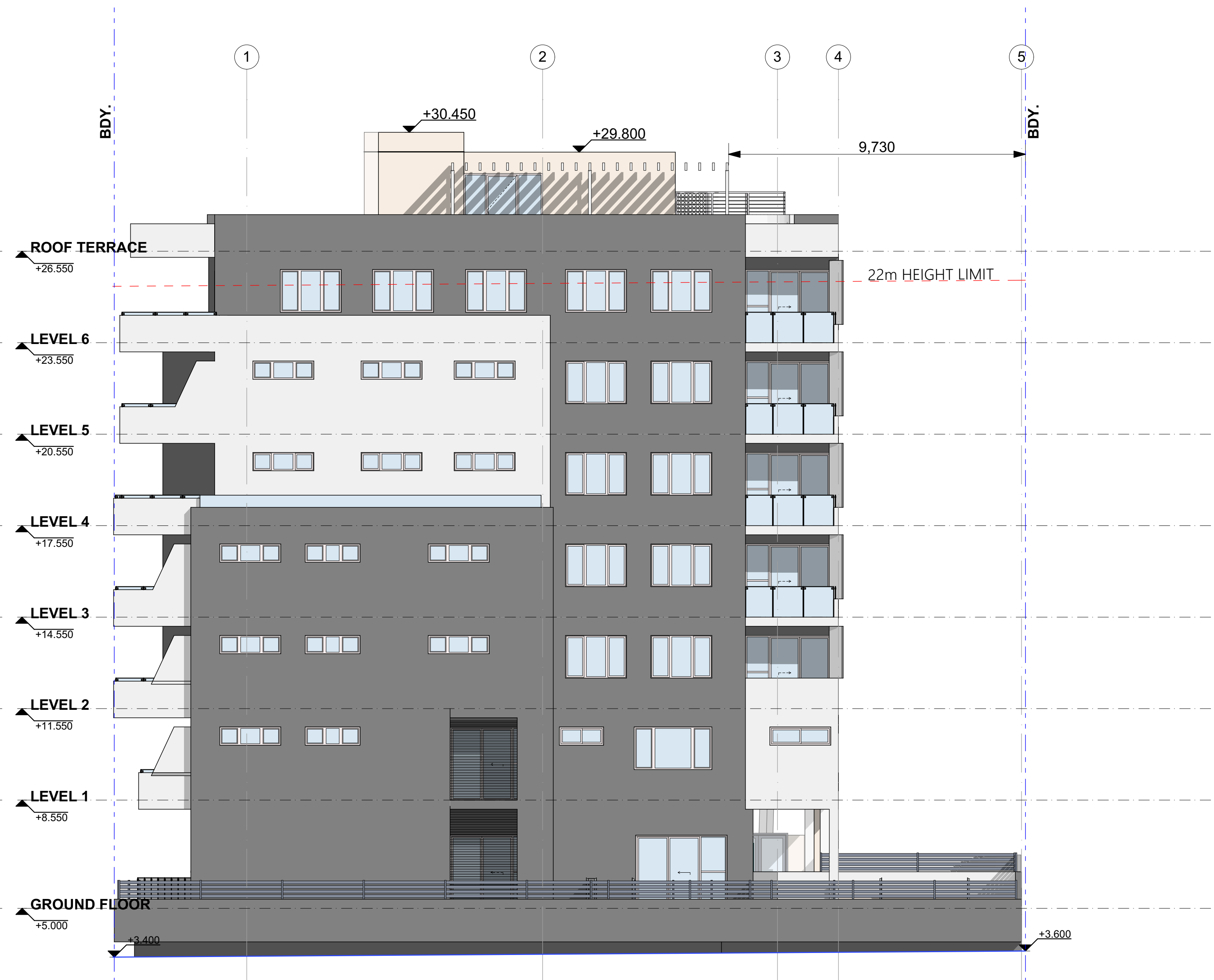
drawing no  
10

issue J

Page 83



WEST ELEVATION  
SCALE 1:100 @ A1



EAST ELEVATION  
SCALE 1:100 @ A1

**NatHERS Specs:**

- Floor slabs: Concrete.
  - R1.5 underfloor insulation to units G01-G03, & G05.
  - R1.0 to unit G04.
  - R0.5 Underfloor insulation to units G06-G07.
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Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW.	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
J	ISSUE FOR DA AMENDMENT.	14.06.2017

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**URBAN LINK**  
architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
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8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project no	610 PRINCES HWY, ROCKDALE	project no	14-081	
client	URBAN LINK PTY LTD	scale	as shown@ A1	
drawing	EAST AND WEST ELEVATIONS	date	07/04/17	
drawn	AY	checked	MB, TJ	
issue J		Page 84		



Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION	31.05.2017
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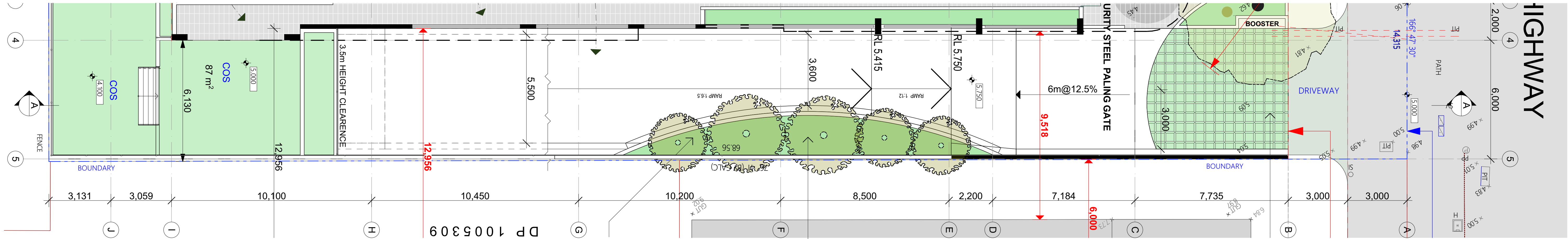
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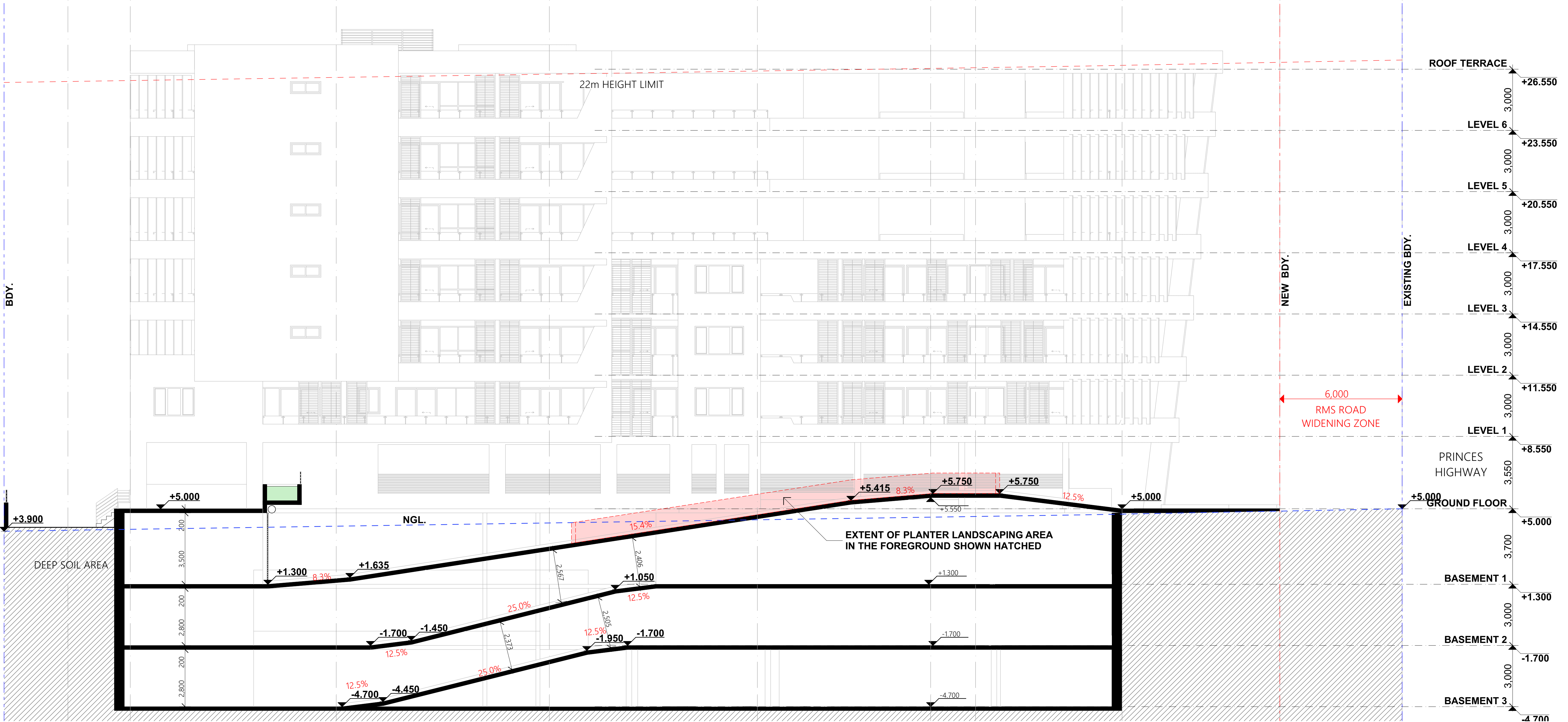
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8933 | Nicolas Toubia Reg no 9336

DEVELOPMENT APPLICATION			
project	610 PRINCES HWY, ROCKDALE	project no	14-081
client	URBAN LINK PTY LTD	scale	as shown@ A1
drawing	STREETSCAPE & DRIVE WAYSECTION	date	07/04/17
checked	MB, TJ	drawn	AY
		issue	J
		Page	85





GROUND FLOOR - DRIVEWAY PLAN  
SCALE 1:100 @ A1



SECTION A-A  
SCALE 1:100 @ A1

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION	31.05.2017
J	ISSUE FOR DA AMENDMENT	14.06.2017

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**URBAN LINK**  
architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2222 Burwood North NSW 2134  
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DEVELOPMENT APPLICATION

project  
610 PRINCES HWY,  
ROCKDALE

client  
URBAN LINK PTY LTD

drawing  
SECTION A

project no  
14-081

scale  
as shown @ A1

date  
07/04/17

drawn  
AY

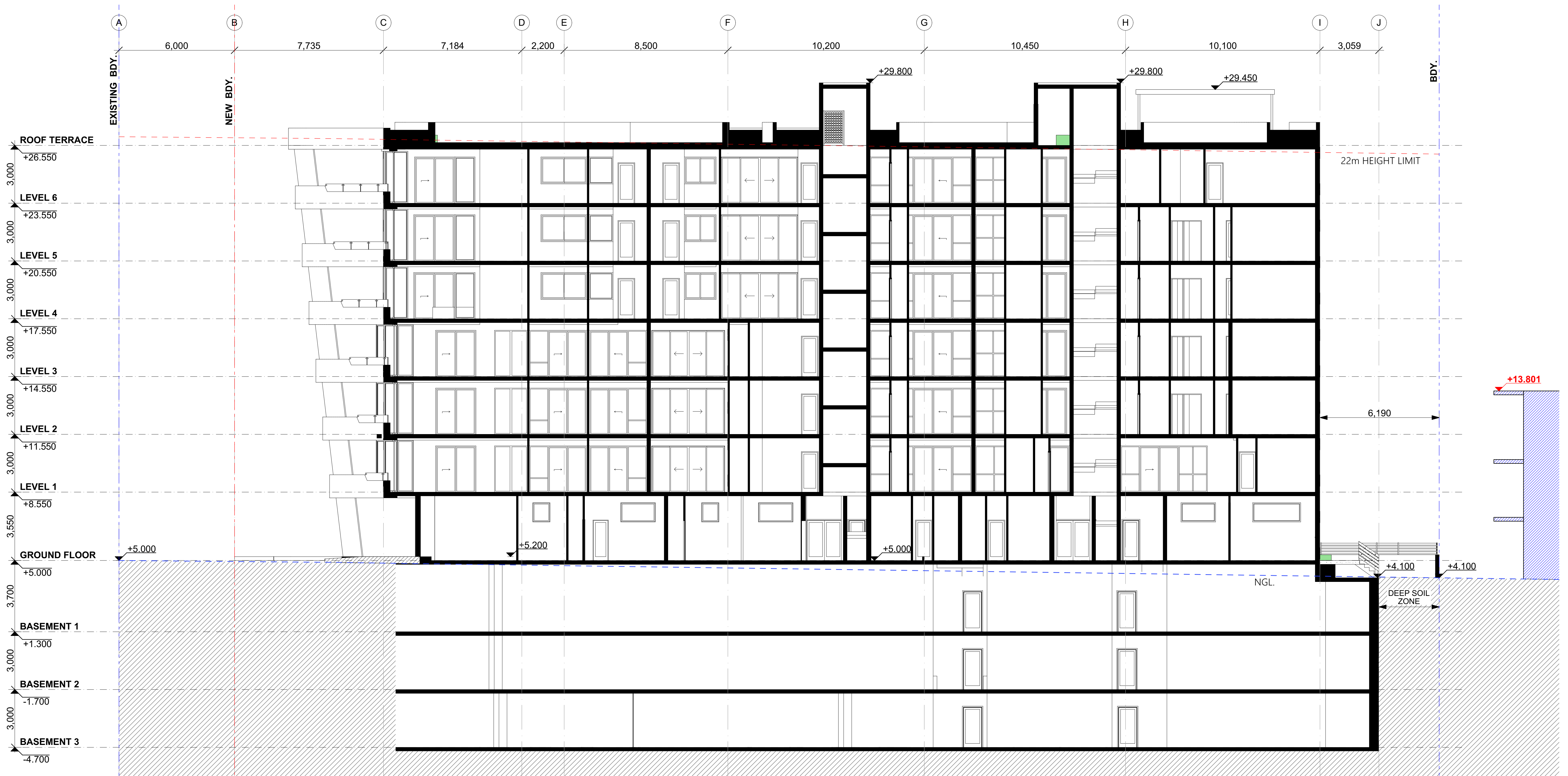
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MB, TJ



drawing no  
13

issue J

Page 86



SECTION B-B  
SCALE 1:100 @ A1

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION	31.05.2017
J	ISSUE FOR DA AMENDMENT	14.06.2017

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**URBAN LINK**  
architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
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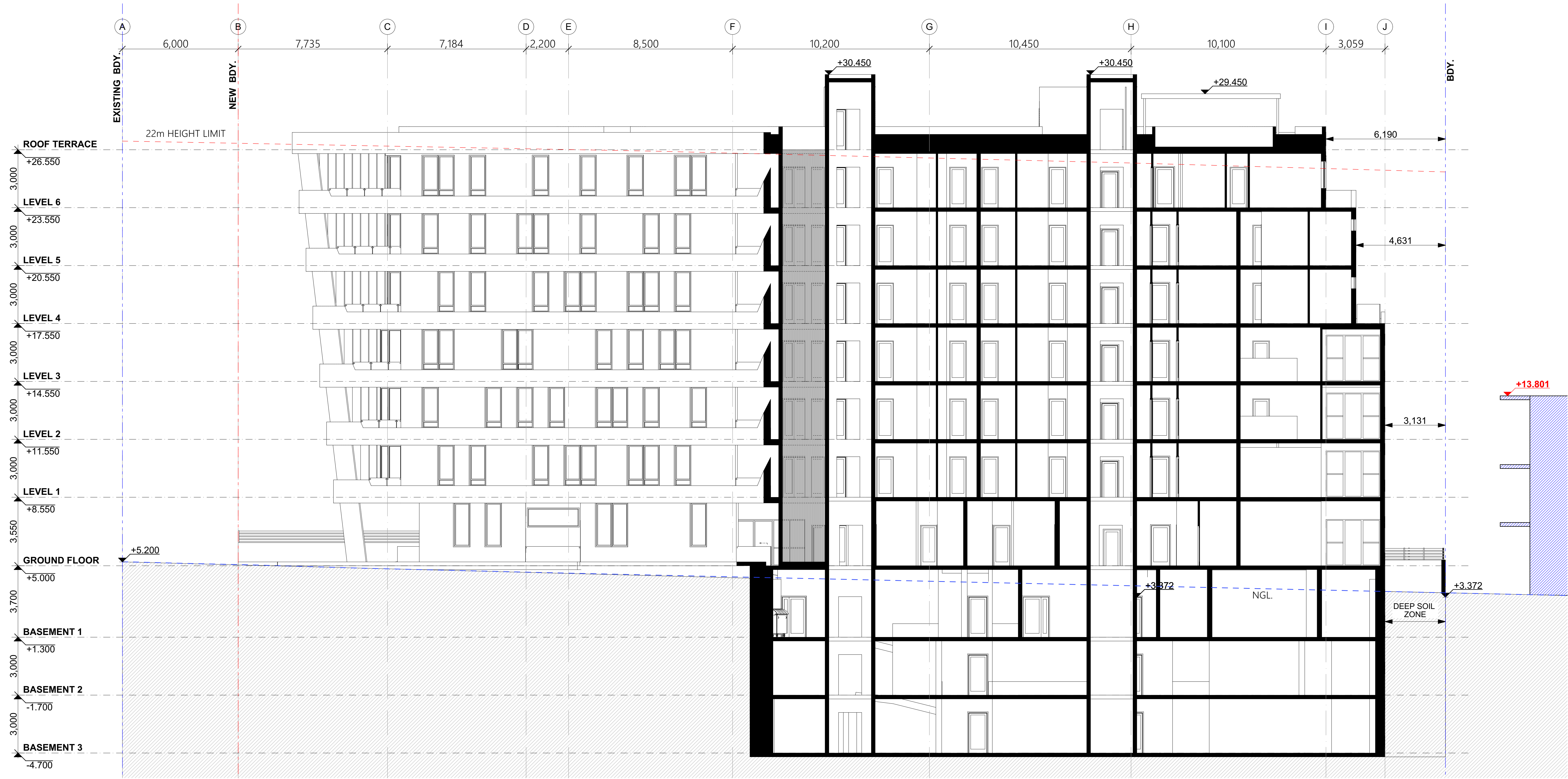
**DEVELOPMENT APPLICATION**

project  
610 PRINCES HWY,  
ROCKDALE  
project no 14-081

client  
URBAN LINK PTY LTD  
scale as shown @ A1  
date 07/04/17  
drawn AY  
checked MB, TJ  
issue J







SECTION C-C  
SCALE 1:100 @ A1

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW	25.05.2017
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J	ISSUE FOR DA AMENDMENT	14.06.2017

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architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
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8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project  
610 PRINCES HWY,  
ROCKDALE  
client  
URBAN LINK PTY LTD

drawing  
SECTION C

project  
no  
14-081  
scale  
as shown@ A1  
date  
07/04/17

drawn  
AY  
checked  
MB, TJ



15

Issue J

Page 88



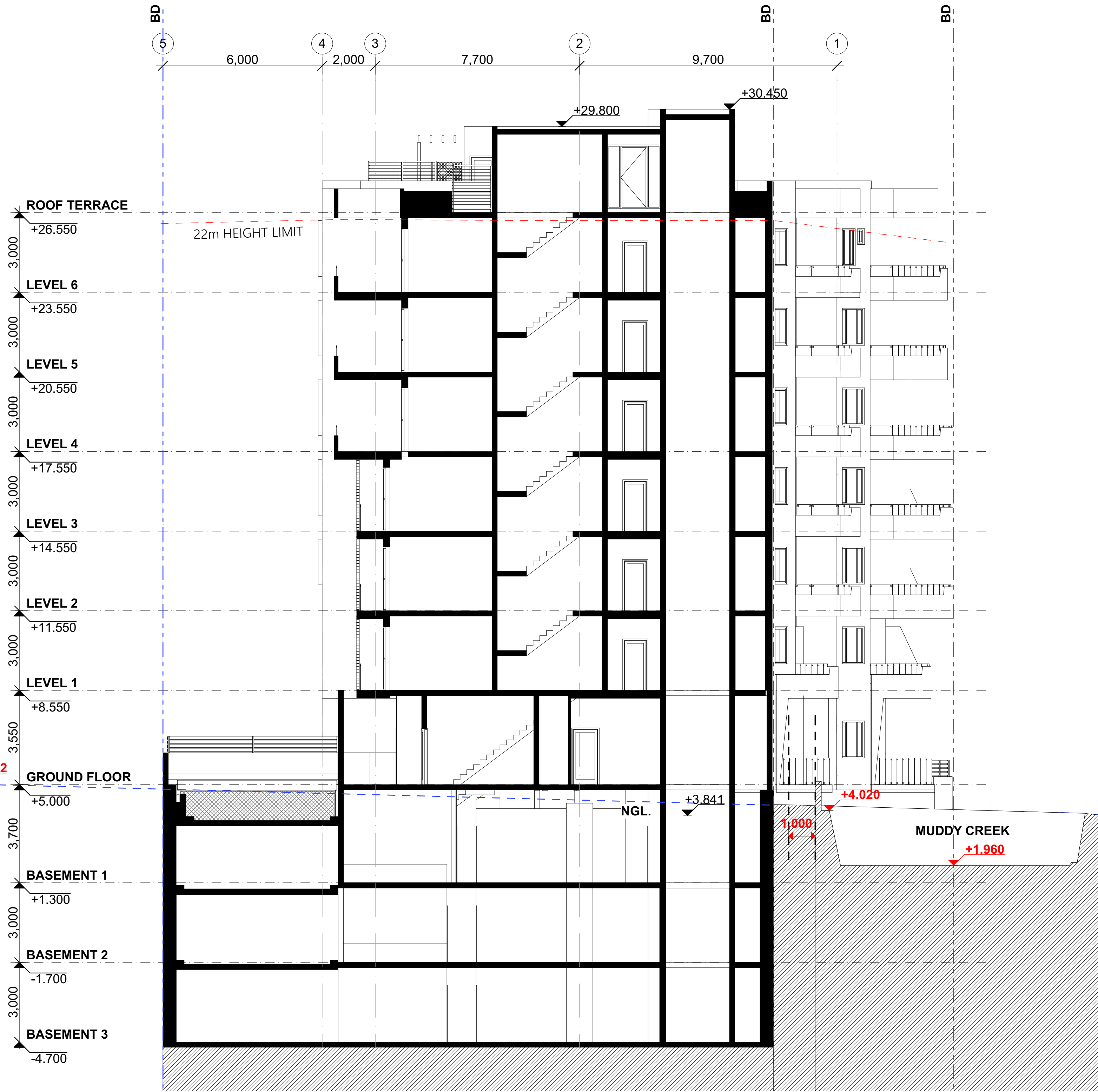


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- R2.5 ceiling insulation to all units with ceilings to concrete roof.
- External & roof walls modelled with medium colour finishes.

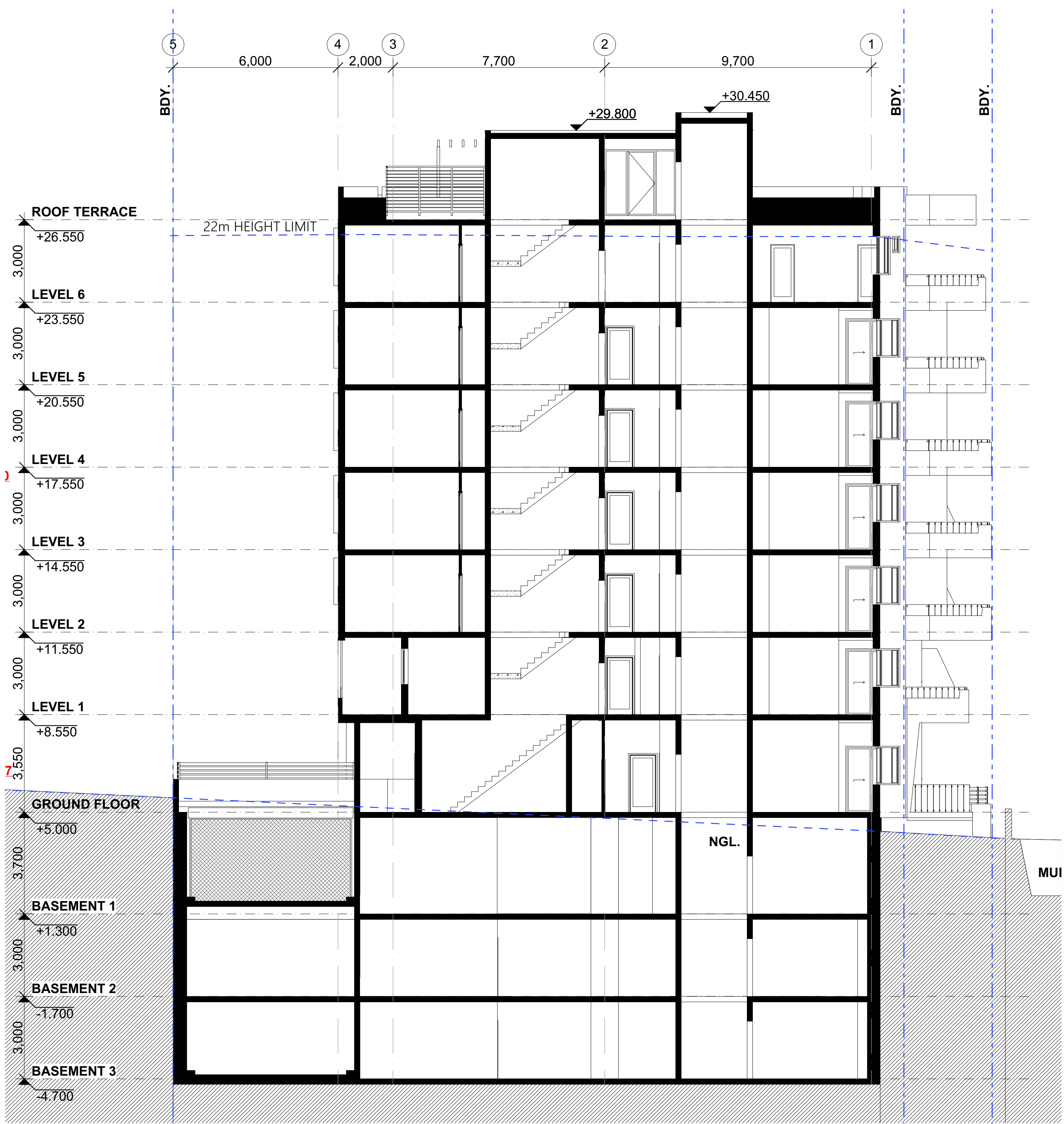
issue J

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW.	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
J	ISSUE FOR DA AMENDMENT.	14.06.2017

Do not scale drawings. Verify all dimensions on site.



SECTION F-F  
SCALE 1:100 @ A1



SECTION G-G  
SCALE 1:100 @ A1

**NatHERS Specs:**

- Floor slabs: Concrete.
  - R1.5 underfloor insulation to units G01-G03, & G05.
  - R1.0 to unit G04.
  - R0.5 Underfloor insulation to units G06-G07.
  - No insulation necessary to remainder.
- Exterior walls:
  - Wall system with R-value (at least R2.0). Rating (R2.0) includes construction materials. E.g – 190mm concrete wall + plasterboard with Foil + R1.2 insulation in cavity.
  - "Exterior walls" = All unit walls that are not party walls to other units or enclosed hall way. Unit walls bordering stairwells & lift shaft to be insulated Hebel or similar in R-value (R2.0).
- Glazing:
  - Low-E glass (U-Value: 4.70, SHGC: 0.63) to units G01-G05, 401, 501, & 601.
  - U-Value & SHGC are combined glass and frame figures.
  - Standard single glazed clear glass modelled (U-Value: 6.57, SHGC: 0.74) to remainder.
- R2.5 ceiling insulation to all units with ceilings with exposed slabs over (eg. balcony overhead).
- R2.5 ceiling insulation to all units with ceilings to concrete roof.
- External & roof walls modelled with medium colour finishes.


Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
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I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
J	ISSUE FOR DA AMENDMENT.	14.06.2017

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**URBAN LINK**  
architects  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

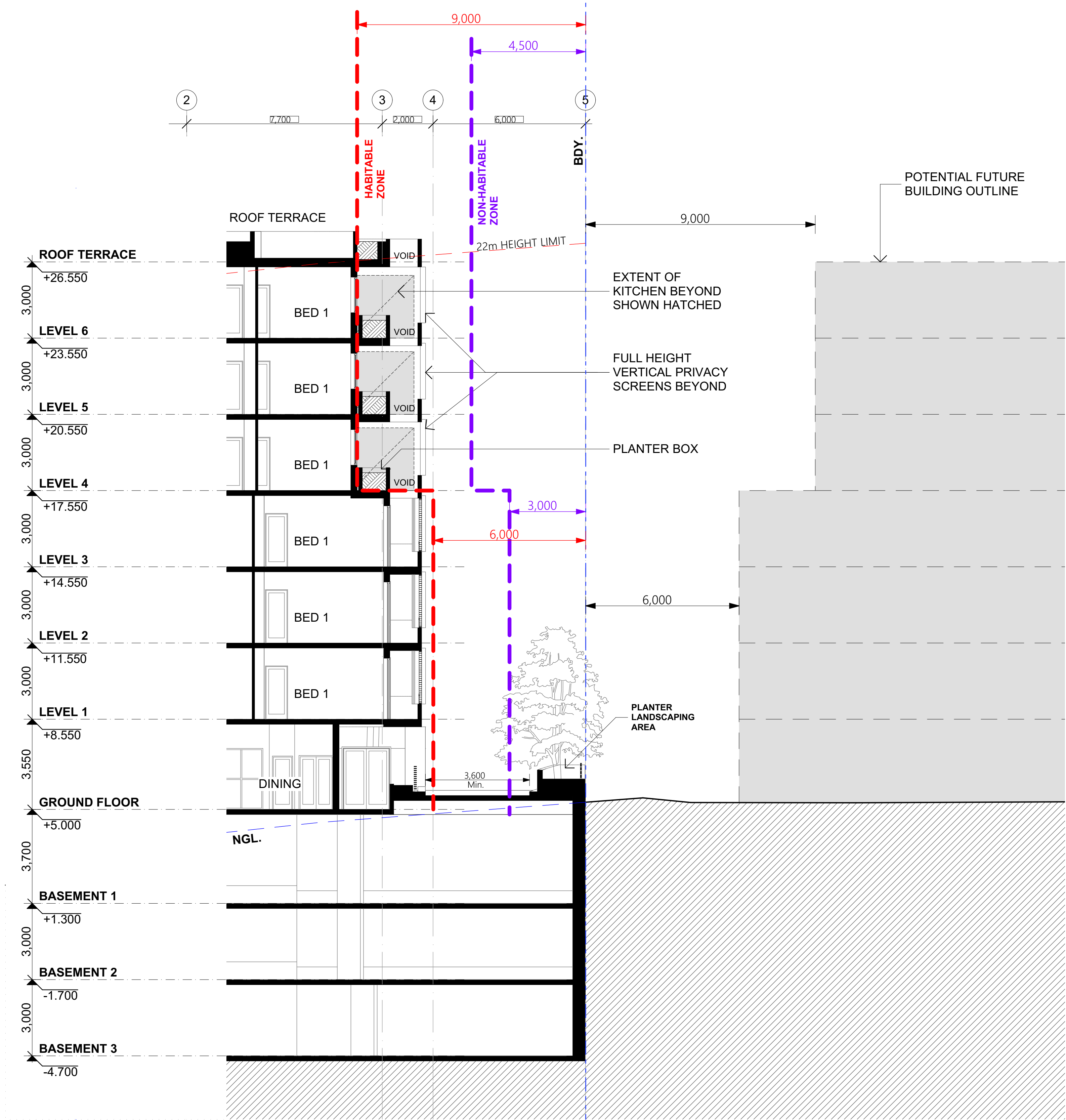
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commission.  
Nominated Architects: Ziad Bouamrhem Reg no 8008 | Yousef El Khawaja Reg no  
8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project 610 PRINCES HWY, ROCKDALE		project no 14-081		
client URBAN LINK PTY LTD		scale as shown@ A1		drawing no 17
drawing SECTIONS F & G		date 07/04/17		
		drawn AY		
		checked MB, TJ	issue J	

Page 90





SECTION H  
SCALE 1:100 @ A1

**NatHERS Specs:**

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  - R1.5 underfloor insulation to units G01-G03, & G05.
  - R1.0 to unit G04.
  - R0.5 Underfloor insulation to units G06-G07.
  - No insulation necessary to remainder.
- Exterior walls:
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- R2.5 ceiling insulation to all units with ceilings to concrete roof.
- External & roof walls modelled with medium colour finishes.

Issue	Amendment	Date
A	ISSUED FOR COUNCIL REVIEW	18.05.2017
B	ISSUED FOR CONSULTANTS CO-ORDINATION.	31.05.2017
C	ISSUE FOR DAMENDMENT.	14.06.2017

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**URBAN LINK**  
a r c h i t e c t s  
L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

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Nominated Architects: Ziad Boumehem Reg no 8008 | Yousef El Khawaja Reg no  
8933 | Nicolas Toubia Reg no 9336

**DEVELOPMENT APPLICATION**

project 610 PRINCES HWY, ROCKDALE	project no 14-081
client URBAN LINK PTY LTD	scale as shown@ A1
drawing SECTION H	date 07/04/17
	drawn AY
	checked MB, TJ
	issue C



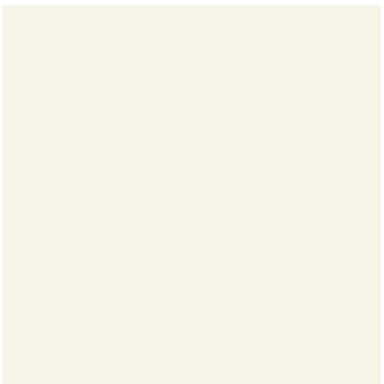
drawing no  
17a






SCHEDULE OF EXTERNAL FINISHES

A




EXTERNAL CONCRETE COLUMNS & WALLS  
PAINT FINISH COLOUR:  
TAUBMANS - COTTON BALL T15 1.1 (T12 1.A1)  
OR SIMILAR

B




EXTERNAL HEBEL WALLS  
PAINT FINISH COLOUR:  
TAUBMANS - JACKAL T15 32.7 (T12 10.H10)  
OR SIMILAR

C




EXTERNAL ALUCOBOND WALL CLADDING  
METALLIC COLOUR FINISH:  
CHAMPAGNE METALLIC - 503  
OR SIMILAR

D



ALUMINIUM FRAMED WINDOWS & DOORS  
SILVER COLOUR FRAME TO MATCH  
TAUBMANS - SPECTRUM GREY T12 8.F7  
OR SIMILAR

E



CLEAR GLASS BALUSTRADE  
OR SIMILAR

Issue	Amendment	Date
E	DRP & COUNCIL COMMENTS IMPLEMENTED	06.05.2016
F	COUNCIL TRAFFIC ENGINEERING COMMENTS	06.06.2016
G	DA AMENDMENTS	07.04.2016
H	ISSUE FOR COUNCIL REVIEW.	25.05.2017
I	ISSUE FOR CONSULTANTS CO-ORDINATION.	31.05.2017
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URBANLINK

architects

L 10, 11 - 15 Deane Street, Burwood NSW 2134  
PO BOX 2223 Burwood North NSW 2134  
Phone (02) 9745 2014 Fax (02) 9745 0984  
Email info@urbanlink.com.au

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Nominated Architects: Ziad Bourmehem Reg no 8008 | Yousef El Khawaja Reg no 8933 | Nicolas Toubia Reg no 9336

DEVELOPMENT APPLICATION			
project	610 PRINCES HWY, ROCKDALE	project no	14-081
client	URBAN LINK PTY LTD	scale	as shown@ A1
drawing	PHOTOMONTAGE & SCHEDULE OF FINISHES	date	07/04/17
		drawn	AY
		checked	MB, TJ
		issue	21
		Page	92



## APPENDIX A: REVISED CLAUSE 4.6 VARIATION STATEMENT - MAXIMUM HEIGHT (CLAUSE 4.3) – Issue J

### 1. Introduction

Clause 4.3 (2) of RLEP 2011 relates to the maximum height requirements and refers to the *Height of Buildings Map*. The relevant map identifies the subject site as having a maximum height of 22m. Building height is defined as:

*“building height (or height of building) means the vertical distance between ground level (existing) and 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 proposal results in a departure from the maximum height limit in relation to the upper portion of Level 7, two lift overruns, a plant room and pergola over part of the communal open space and rooftop balustrading as highlighted in purple at Figure 1 below.



**Figure 1:** Extent of height non-compliance (southern elevation)

That maximum height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.

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 Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General 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 Director-General 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.

**Note.** When this Plan was made it did not include 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.

(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.”7

The development standards in clause 4.3 are not “expressly excluded” from the operation of clause 4.6. This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate 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, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

The balance of this request will be divided into the following sections, each dealing with the nominated aspect of clause 4.6:

- consistency with the development standard objectives and the zone objectives (clause 4.6(a)(ii));
- sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)); and
- compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)).

## **2. Consistency with the development standard objectives and the zone objectives (clause 4.6(a)(ii))**

The objectives of clause 4.3 are as follows, inter alia:

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

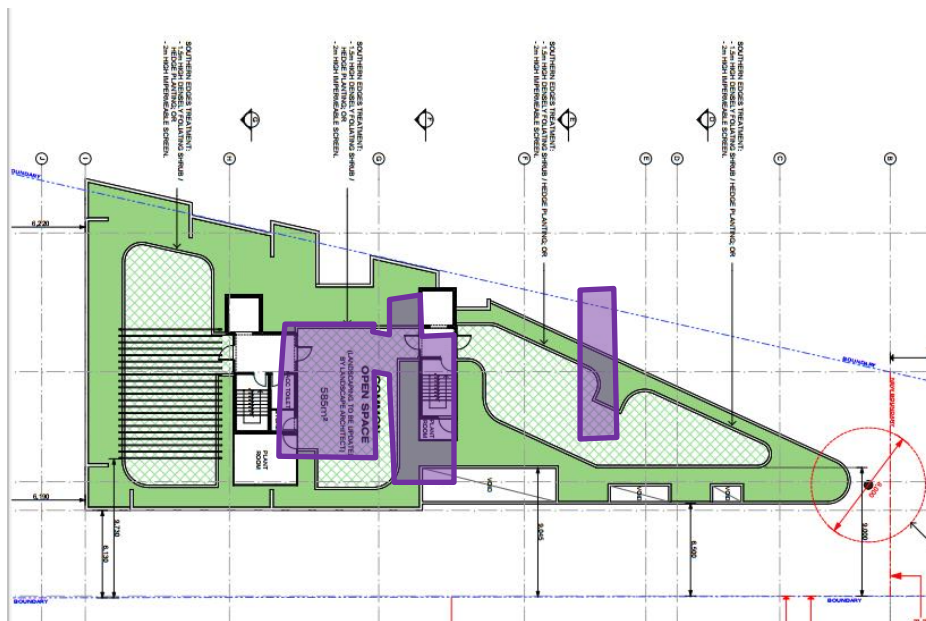
As previously noted, the *height of buildings map*, nominates a maximum building height of 22m at the site. It is hereby requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit the building height proposed which extends up to 22.95m (RL26.5) in relation to level 7 ceiling, a maximum of 26.9m (RL30.45) in relation to the two lift overruns and 25.9m (RL29.45) in relation to the pergola structure over the communal open space.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of clause 4.4 are addressed in turn below.

## Objective (a)

This objective seeks to establish a maximum limit within which buildings can be designed and floor space can be achieved. The site is excluded from a maximum building density (FSR) and consequently the building height limit together with setback requirements is the principal control in dictating the built form on the site. There are a number of site constraints that have contributed to the 22m building height limit being exceeded, which include the fall from the street to the rear of the site and the desire to achieve a level building platform, the narrow site frontage which limits the width of the building and the desire to try and achieve compliant side and rear boundary setbacks in accordance with the Apartment Design Guide.

The revised design has made significant improvements to the overall layout and design of the building increasing the setbacks to the northern and eastern boundaries, including the provision of more deep soil and landscaping adjacent to the lower density residential development. The size of the pergola structure has also been reduced in line with Council's requirement to lower the over height and scale of the non-compliant portions of building. The pergola structure is located at the rear of the building and is setback further from the building edge thereby reducing its visibility when viewed from the street or any adjoining land. The lift and stair overruns and plant room are necessary to house the mechanical equipment for the building and to provide lift and stair access to the well designed and vast roof terrace. In terms of area these elements are small and represent a small portion of the overall roof space as illustrated in Figure 2 below.



**Figure 2:** Extent of covered plant and lift equipment and pergola on the roof terrace

While the proposal exceeds the maximum height limit it does not represent a whole new floor level and therefore will not appear substantially larger than any other new building proposed within the B4 zone. The height non-compliance will be absorbed into the street scene once other neighbouring sites are redeveloped to the 22m (7 storeys) and 31m (10 storeys) height permissible along this section of the Princes Highway.





### **Objective (b)**

Objective (b) seeks to permit building heights that encourage high quality urban form. Following detailed consultation with Council officers and the Design Review Panel substantial improvements have been made to the layout and architectural design of the building. The proposal will contribute to a landmark building at the southern entrance to Rockdale Town Centre and will create a high quality urban form. The revised building façade addresses the narrow site frontage to the Princes Highway with a tightly curved (flatiron) corner. The amended façade is well articulated and presents a building form appropriate to the narrow site, the building widening towards the rear. The revised design will contribute to a high quality urban form through increased setbacks to neighbouring residential properties and the provision of deep soil planting along the northern and eastern boundaries.

### **Objective (c)**

Objective (c) seeks to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain. As discussed in the previously submitted Statement of Environmental Effects the favourable orientation of the site ensures that notwithstanding the building height non-compliance the proposal maintains satisfactory sky exposure and daylight to buildings, key areas and the public domain. Further improvements have been made to the outlook and amenity of neighbouring sites by increasing the boundary setbacks to the side and rear boundaries and reducing the size of the pergola structure to the roof top open space. The building height non-compliances will have no discernible impact on sky exposure and daylight compared to that of a compliant scheme and consequently objective (c) is met notwithstanding the increase in building height. The revised proposal maintains reasonable solar access to surrounding development and the public domain.

### **Objective (d)**

Objective (d) seeks to nominate heights that will provide an appropriate transition in built form and land use intensity. Observations of the local area indicate that the character of development in the vicinity of the site is varied largely due to the different land use zones which include B4 zoned land to the Princes Highway and R3 zoned land to residential properties to the rear along Hayburn and Lister Avenue.

The sites falling within the B4 zone have a height limit of 22-31m while the R3 zoned land to the rear along Hayburn and Lister Avenue have a height limit of 11m. As a result of the different land use zoning and different periods of development, the locality currently comprises a number of recently constructed residential flat buildings which reflect the increased building height, older style residential flat buildings of four storeys in height, single storey dwellings and one and two storey commercial premises located along the Princes Highway corridor.

It is anticipated that in the future the maximum building heights in the locality will change allowing for increased building heights and densities within the street block bounded by Rockdale Plaza Drive, Princes Highway, Hayburn Avenue and Lister Avenue. The maximum building heights will range from 22m-31m (7-10 storeys).

In the interim the proposed building height will sit comfortably with the building heights of 7-10 storeys permitted along the Princes Highway frontage and the revised proposal includes increased setbacks and modified building design to offset any impact upon the residential flat building to the side and rear of the site. The massing of the building has been reduced from the rear boundary by increasing the setback from 3m to 6m for portion of the building and reducing the size of the pergola structure.

While the subject site is narrow, the proposed building will contribute positively to the Rockdale Town Centre and the desired future character to provide a 'green gateway' approach to the Town Centre. As outlined previously the building setback has been increased and the layout amended to include a larger deep soil zone to the rear of the building. Overall the changes to the proposal will ensure there is a transition in built form and land use intensity that will address

both the needs of the current neighbouring properties and those of the future occupants following an increase in height and density controls in the area.

### **Zone Objectives**

Clause 4.6(4) also requires consideration of the relevant zone objectives which are provided below.

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

The proposal satisfies the objectives of the zone in that it provides a residential building in an accessible location so as to maximise public transport patronage and encourage walking and cycling. The site shares two boundaries with residential land uses and part of its northern boundary with a commercial premises at No. 606 Princes Highway. Due to the revised layout and design the building setback has been increased to the neighbouring commercial land use and the location of the driveway access and pedestrian colonnade will ensure that there is no loss of amenity to future occupants. The latest revision also includes a landscape edge adjacent to the driveway access which provides for larger trees to be planted which will further offset the impact of non-residential uses in the short term and will contribute to residential amenity and privacy in the long term.

### **3. Sufficient environmental planning grounds to justify contravening the development standard (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 relating to height, as discussed above it is considered that there is an absence of a significant impacts of the proposed non-compliance on area character as it relates to the Princes Highway and adjoining and neighbouring properties.

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the current proposal will facilitate an additional opportunity to provide residential accommodation on a site that is highly suited for such purposes and in a configuration that will not detract from neighbouring properties. Therefore, on balance, the proposal is considered to achieve a planning purpose of enhancing the site’s contribution to Rockdale Town Centre, particularly in the absence of any additional adverse impacts

### **4. Compliance 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. 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.”*

However, in *Four2Five v Ashfield Council* [2015] NSWLEC 90 the Land and Environment Court said that whether something was ‘unreasonable or unnecessary’ is now addressed specifically in clause 4.6(4)(a)(ii), with separate attention required to the question of whether compliance is unreasonable or unnecessary. Accordingly, while the



objectives of the standard are achieved despite non-compliance with the standard, this request goes further. It seeks to demonstrate that requiring strict adherence to the standard would be 'unreasonable or unnecessary' for reasons that are additional to mere consistency with the development standard.

Preston CJ in *Wehbe* expressed the view that there are four additional ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. ...
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *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;*
5. *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.*

Having regard to all of the above, it is our opinion that compliance with the maximum building height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that standard would be unreasonable. Additionally, the benefits of the proposal in providing additional dwellings within an acceptable built form outcome will be delivered through this proposal. As such, there are sufficient environmental planning grounds to justify an exception to the development standard. On this basis, the requirements of clause 4.6(3) are satisfied.

## **5. Conclusion**

The revised development proposal will provide diverse and additional housing choice with superior amenity. This is achieved by well-planned and functional apartments with high solar and cross ventilation performance, and access to common open space.

Accordingly, for the reasons stated above, we respectfully request that the consent authority permit the variation to the maximum building height development standard.