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**Bayside Planning Panel**

**13/06/2017**

Item No	5.5
Application Type	Development Application
Application Number	DA-2016/402
Lodgement Date	7 June 2016
Property	686-688 Princes Highway, Kogarah
Owner	Tonuja Constructions Pty Ltd
Applicant	Ideas-design Associates
Proposal	Cconstruction of a four (4) storey residential flat building comprising sixteen (16) residential units, rooftop terrace, basement parking and demolition of existing structures
No. of Submissions	Nil
Cost of Development	\$4,051,663
Report by	Creative Planning Solutions P/L

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**Officer Recommendation**

- 1 That the Bayside Planning Panel supports the variation to clause 4.3 - Building height of *Rockdale Local Environmental Plan 2011* in accordance with the Clause 4.6 justification provided by the applicant.
  - 2 That the Development Application No.DA-2016/402 for the cconstruction of a four (4) storey residential flat building comprising sixteen (16) residential units, rooftop terrace, basement parking and demolition of existing structures at 688 Princes Highway Kogarah be approved subject to the conditions attached to this report.
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**Attachments**

- 1 Planning Assessment Report
- 2 Draft Notice of Determination
- 3 Proposed Site Plan
- 4 Proposed Elevations

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## Location Plan



Fig 1 – Location Plan

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/402
<b>Date of Lodgement:</b>	07 June 2016
<b>Property:</b>	686 and 688 Princes Highway, KOGARAH NSW 2217 Lot 2 DP 1188540
<b>Owner:</b>	Tonuja Constructions Pty Ltd
<b>Applicant:</b>	Tonuja Constructions Pty Ltd
<b>Proposal:</b>	Construction of a four (4) storey residential flat building comprising sixteen (16) residential units, rooftop terrace, basement parking and demolition of existing structures
<b>Recommendation:</b>	Approval, subject to recommended conditions of consent
<b>No. of submissions:</b>	None
<b>Author:</b>	Patrick Waite – Creative Planning Solutions
<b>Date of Report:</b>	30 May 2017

### Key Issues

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#### Key Issues:

- **Height of buildings** – At 16.18m the proposal will breach the 14.5m building height limit under clause 4.3 of the *Rockdale Local Environmental Plan 2011* (RLEP 2011) by 1.68m. This relates to the lift overrun and presents an 11.6% variation to the standard. Minor building height non-compliances of 400mm and 300mm also occur for the stair/lift lobby and roof over the rooftop communal area respectively. A clause 4.6 written request to vary this development standard has been submitted by the applicant.
- **Avoidance of isolated sites** – Site isolation of the existing three-storey commercial building at 684 Princes Highway will occur as this land fails to meet the minimum lot width requirements for residential flat buildings, or mixed use development under the relevant planning controls. However, the applicant has demonstrated the valuation of the adjoining site is such that it would not be economically viable or reasonable to require lot consolidation. Consistent with the established planning principles in *Melissa Grech V Auburn Council [2004] NSWLEC40* it is therefore considered site isolation to be unavoidable.
- **Minor Apartment Design Guideline variations** – The proposal provides a technical height exceedance for the required building separation of four-storey apartment buildings, and a minor reduction to the basement level ceiling height. Subject to this assessment, both minor variations were determined to be acceptable as the design objectives are achieved.

## Recommendation

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1. That The Bayside Planning Panel support the variation to Clause 4.3 - Building height of *Rockdale Local Environmental Plan 2011*, as detailed within the Clause 4.6 section of this report.
2. That the Development Application DA-2016/402 for the construction of a four (4) storey residential flat building comprising sixteen (16) residential units, rooftop terrace, basement parking and demolition of existing structures at 688 Princes Highway Kogarah 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.

## Background

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### History

The development history applicable to the subject site is summarised as follows:

- In 1991, a development application (DA) was lodged with Council seeking consent for the erection of a spray booth (DA-1991/291). In 1992, a building application was lodged for the works associated with the spray booth.
- In 2005, a pre-application development meeting (PDA-2005/22) was requested to discuss a potential mixed residential/ commercial development (686-690 Princess Highway, Kogarah).
- In 2008, a pre-application development meeting (PDA-2008/19) was requested to discuss a potential mixed use development comprising 2 commercial and 24 residential units and one basement parking level (686-690 Princess Highway, Kogarah).

The DA history of the proposed development is summarised as follows:

- On 17 January 2014, Council received a Subdivision Certificate application (SC-2014/20) for the boundary adjustment pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* on land at 688 and 690 Princes Highway, Kogarah.
- On 6 May 2014, an application seeking consent for a boundary adjustment Subdivision Certificate (SC- 2014/20) was withdrawn.
- On 16 May 2014, Council granted approval to Development Application (DA-2014/279) for boundary adjustment and Torrens title subdivision of three (3) lots into two (2) lots at 688 and 690 Princes Highway, Kogarah which involved the creation two equally sized allotments of approximately 1,289 m<sup>2</sup> in size. The subject site occupies the southernmost of the two equally sized allotments.
- On 15 August 2014, Council endorsed the Subdivision Certificate (SC-2015/4) for the boundary adjustment and Torrens title subdivision of three (3) lots into two (2) lots. The subject site is to be known as Lot 1 in DP 1188540, 690 Princes Highway, Kogarah and the northern adjoining property is known as Lot 2 in DP 1188540, 688 Princes Highway, Kogarah.
- On 4 November 2015, a Preliminary Development Application Meeting (Pre-DA) was held at Council offices. The meeting discussed a development proposal for a four (4) storey

residential flat building with basement car parking at the subject site. A letter outlining a summary of issues relating to the discussed proposal was sent to the applicant of the Pre-DA on 3 December 2015.

- On 12 January 2016, the development proposal discussed in the Pre-DA meeting of 4 November 2015 (with minor amendments) was reviewed by the St George Design Review Panel.
- On 7 June 2016, the development application (DA-2016/402) was lodged with Council, which is the subject of this report.
- On 16 June 2016, the application was notified to adjoining owners for which formal submissions could be received until 6 July 2016.
- On 23 June 2016, the application was referred to a special meeting of the St George Design Review Panel. Subject to a review of the proposal, the panel recommended the proposal to be revised to address the following:
  - a) The interface within the public domain along Princes Highway and Cross Lane needs to clearly demarcate private/public fences, planter boxes and hard/soft surfaced edge treatments.
  - b) The main pedestrian entry from Princes Highway should not be too deep and should be moved closer to the front of the building.
  - c) Without having a major impact on the building height, the ground floor level of the building be raised to correspond with the Princes Highway street level, which would delete the need for a ramp from Princes Highway to the main entry door.
  - d) The communal rooftop space must have lift core access throughout the building and should be clearly annotated on the plans and sections.
  - e) The private open space to Unit 3 was partly beneath the undercroft area and a window in Bedroom 2 should be redesigned to improve the residential amenity to the future owner/occupants of Unit 3.
  - f) The combination of driveway access, bicycle parking, fire exits etc within the undercroft space appears as a servicing area. There is potential that it will be used as an informal open storage area and be unsightly. This area should not be calculated towards the communal open space area and should be removed.
  - g) Ensure the primary communal open space is provided on the rooftop level and remove the communal open space within the undercroft area.
  - h) Ensure the living and dining room in Units 3 and 12 are not compromised by the internal stairs. It appeared the bedrooms in Unit 3 had poor access to direct sunlight due to the undercroft location, privacy screens and did not appear capable of accommodating a double bed.
- On 20 July 2016, a referral response from the NSW Roads and Maritime Service was received in support of the proposal, subject to conditions.
- On 28 September 2016, in response to an assessment of the proposal undertaken by Council, an additional information request letter was sent to the applicant. The letter outlined the following non-compliances/issues:
  1. Inconsistency with SEPP 65 as outlined by the recommendations of the St George Design Review Panel.

2. No-compliance with Clause 4.4 of the *Rockdale Local Environmental Plan 2011* (RLEP 2011). A floor space ratio exceedance had been calculated by Council.
  3. Inconsistency with the following parts of the *Rockdale Development Control Plan 2011* (RDCP 2011)
    - Part 4.1.3 (Water Management),
    - Part 4.1.9 (Site Isolation),
    - Part 4.3.2 (Private Open Space),
    - Part 4.5 (Social Equity),
    - Part 4.6 (Car Parking, Access and Movement),
    - Part 4.7 (Site Facilities),
    - Part 5.2 (Residential Flat Buildings).
  4. Inconsistent information provided within the BASIX Certificate.
  5. Insufficient information with request for cross-sections diagrams, amended architectural plans with room dimensions and RL's to be shown, and clarification of discrepancy between photomontage, landscape plan, and architectural plans.
- On 2 September 2016, a Preliminary Site Investigation Report and a Preliminary Geotechnical and Acid Sulfate Soils Assessment, prepared by Martens & Associates, was submitted to Council.
  - On 13 September 2016, an amended Preliminary Site Investigation Report, prepared by Martens & Associates, was submitted to Council.
  - On 8 November 2016, a response letter replying to Council's additional information request letter of 28 September 2016, was received. Accompanying the response letter were: amended architectural plans (dated 31 October 2016), and a letter from the applicant's drainage engineer's, and traffic engineer.
  - On 10 November 2016, subject to design amendments, the application was re-notified for which formal submissions could be received until 28 November 2016.
  - On 21 November 2016, a Clause 4.6 written request seeking to vary the height of building standard of the RLEP 2011 was submitted to Council.
  - On 31 January 2017, the assessment of the DA was outsourced to Creative Planning Solutions Pty Limited (CPS), in response to internal staff movements within Council.
  - On 21 March 2017, in response to the consultant's assessment of the amended architectural plans and additional information response, an additional information request letter was sent to the applicant. The letter outlined the following outstanding non-compliances/issues:
    1. Avoidance of isolated sites had not been appropriately addressed by the applicant.
    2. Building height exceedance has not appropriately been addressed, with the submitted clause 4.6 not being consistent with the NSW Government's publication titled 'Varying development standards: A Guide' dated August 2011.
    3. Apartment Design Guideline (ADG) non-compliances, including: floor to floor heights, building separation, apartment size and layout, Communal open space area at ground floor, and storage area.
  - On 8 May 2017, a response letter addressing Council's additional information request of 29 March 2017 was received. This letter responded to Council's concerns of site isolation, building heights, proposed ADG variations, communal open space, and storage areas. The response letter was further accompanied by a valuation report, and a revised Clause 4.6

written request justifying the variation to the maximum height of building standard, and revised architectural plans (dated 26 April 2017).

Note. The amended architectural plans submitted on the 8 May 2017 have been used in the assessment of the proposal.

- On 17 May 2017, a referral response from Sydney Airport was received in relation to the building's non-compliant building height demonstrated on the plans submitted to Council on 8 May 2017.

## **Proposal**

The proposal seeks to construct a four (4) storey residential flat building development comprising sixteen (16) units, basement parking, roof terrace, demolition of existing structures, and remediation of land at 686-688 Princes Highway, Kogarah.

Detail of the proposal are as follows:

### ***Basement Level (RL 11.35)***

- Vehicular access is provided via Cross Lane
- 21 residential car parking spaces which includes 2 accessible spaces, 4 visitor spaces with 1 shared car wash bay, 1 motorcycle space, 1 lift core, air conditioner/mechanical room, garbage room, 2 fire stairwells and storage cages.

### ***Ground Floor Plan (RL 14.05)***

- 3 x residential units with pedestrian access from either the Princes Highway or Cross Lane entrance. These units comprise of 2 x one-bedroom accessible units, and 1 x split level three-bedroom unit.
- Communal undercroft area and communal landscaped area towards Cross Lane with 3 bicycle spaces provided.

### ***First Floor Plan (RL 17.05)***

- 4 x two-bedroom residential units are proposed with access from either the Princes Highway or Cross Lane entrance..

### ***Second Floor Plan (RL 20.05)***

- 5 x residential units with access from either the Princes Princes Highway or Cross Lane entrance are proposed. These comprise of 1 x split level one-bedroom unit, and 4 x two-bedroom units.

### ***Third Floor Plan (RL 23.05)***

- 4 x residential units with access from either the Princes Highway or Cross Lane entrance are proposed. These comprise of 4 x two-bedroom units.

### ***Roof Floor Plan (RL 26.05)***

- Communal rooftop area with BBQ facilities, wash basins, toilet and machine room. The rooftop area is accessible via both the lift and stairs.

## Site location and context

The subject site is legally known as Lot 2 in Deposited Plan 1188540, and is commonly known as 686 and 688 Princes Highway, Kogarah. The subject site comprises a 26.52m western frontage to the Princes Highway, 48.60m northern and southern side boundaries, and a 26.52m eastern rear boundary abutting Cross Lane. The site area has a surveyed land area of 1,289m<sup>2</sup>. Refer to **Figure 1**.



**Figure 1:** Aerial image of 688 Princess Hwy, Kogarah, illustrating lot alignment and orientation.  
Source: maps.google.com, as adapted by CPS

The site is currently occupied by a single storey vacant building, and numerous metal sheds and the partly demolished brick building (which was previously used as a mechanical repairs workshop 'Express Automotive Solutions'). Primary vehicular access is currently gained from the Princes Highway with a secondary vehicular access from Cross Lane. Metal sheds are located along the rear boundary.

Opposite the site to the south is No.690 Princes Highway which is currently undergoing construction works for an approved four-storey residential flat building with basement car parking (DA-2014/336).

To the north at No.684 Princes Highway is a modern three-storey office building with a roof-top terrace.

To the east of the subject site is No.2-4 French Street which is currently occupied by a four-storey residential flat building with eleven (11) residential units and vehicular access from Cross Lane.

To the west is the traffic signalled intersection of Regent Street and Princes Highway which provides



access to the Kogarah Town Centre. On the western side of Princes Highway is No.43 Princes Highway which is a two-storey shop-top housing development and No.99 Regent Street is a two-storey residential flat building comprising of four (4) apartment units with a light pink external render finish with a tiled roof. Further to the southwest is the Kogarah Public School and St Pauls Church.

The subject site is affected by potentially contaminated land due to the previous industrial land uses of No.688 Princes Highway and the rear portion of No.690 Princes Highway that were historically being used as an industrial storage area. The subject site is affected by Acid Sulphate Soils, with a nominated classification under the RLEP 2011 of 'Class 5'.

Refer to site inspection photographs as follows.



**Site Inspection Photo 1** – Viewing subject site looking across Princess Hwy and Regent St signalised intersection.



**Site Inspection Photo 2** – Viewing adjoining development at 690 Princess Hwy (under construction).



**Site Inspection Photo 3** – Viewing adjoining development at 684 Princess Hwy.



**Site Inspection Photo 4** – Viewing recently constructed development at 29-31 Princess Hwy, located north-west of the subject site within the Georges River Council local government area.



**Site Inspection Photo 5** – Viewing from Cross Lane at construction fencing of 690 Princes Hwy and adjoining subject site (rear of subject site).



**Site Inspection Photo 6** – Viewing adjoining development at 690 Princes Hwy from Cross Lane (rear of subject site).



**Site Inspection Photo 7** – Viewing rear of subject site and adjoining development under construction at 690 Princes Hwy from Cross Lane (rear of subject site).



**Site Inspection Photo 8** – Viewing part of the rear of subject site (building with corrugated sheeting) and adjoining development at 684 Princes Hwy from Cross Lane.

# 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.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 No 55 – Remediation of Land**

Clause 7 of SEPP 55 requires the consent authority to consider whether the land that is subject to the proposed development is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable for the development in its current state or can be made suitable via land remediation measures.

With reference to the development history of the subject site, it is noted that previous uses included motor mechanical and spray painting uses which has the potential to contaminate the land. In this regard, the proposal was accompanied by a Preliminary Site Investigation Report prepared by Martens Consulting Engineering and dated 13 September 2016. This report performed a desktop review of the historic and potentially contaminating site activities, review of EPA notices under the *Contaminated Land Management Act 1997*, and intrusive subsurface investigation inclusive of soil sampling and testing.

The investigation report found that ‘overall, the site is considered to have a low risk of contamination and poses a low potential risk of harm to human health and environment under proposed development conditions’. The report further provided recommendations to that will ensure the site shall be able to be made suitable for the proposed development.

It is noted that the Preliminary Site Investigation Report does include recommendations, such as the requirement the property undergo a hazardous materials assessment by appropriately qualified contractor pre demolition to determine if asbestos or other hazardous material is present. The Preliminary Site Investigation Report outlined that where hazardous materials are identified, the material is to be removed and disposed of by an appropriately qualified contractor under current controls.

Other recommendations include:

- A walkover inspection following demolition is required to determine any residual impacts or unexpected finds from previous use.
- As the proposed development includes a basement to a depth of up to 3.0 mbgl, the majority of the site is expected to be excavated up to site boundaries, followed by removal of site soils. All fill material is to be removed from site as a part of the site excavation works. Prior to any fill or soil being removed from site, a formal waste classification assessment in accordance with NSW EPA Waste Classification Guidelines (2014) is required.

- Based on available information regarding groundwater conditions (depth, quality) below the site, the proposed basement excavation is unlikely to intercept the groundwater table (refer to MA, 2016).

Given the above recommendations within the Preliminary Site Investigation Report, a condition of consent requiring consistency with the above recommendations within the report has been included.

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 719578M\_02.

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

- Reduction in Energy Consumption 36 (Target:30)
- Reduction in Water Consumption 40 (Target: 40)
- Thermal Comfort Pass (Target: Pass)

The draft Notice of Determination include a condition requiring compliance with BASIX Certificate 629382M\_02.

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

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

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

#### **Advice from Design Review Panel**

The proposed development was originally considered by the St George Design Review Panel (DRP) at a Pre-DA (PDA-2016/19) held at Council's offices on 12 January 2016.

The proposal was then again considered, post lodgement of the DA, at a special meeting by the DRP on 23 June 2016.

Subject to these meetings the DRP recommended several changes be made to the proposal in order to satisfy the nine (9) design quality principles of SEPP 65. The applicant has considered the recommended changes and has provided amended architectural plans on 31 October 2016, and again on 8 May 2017, which are considered to appropriately respond to the recommendations made by the DRP.

The latest recommendations of the DRP are highlighted below, followed by a comment outlining the corresponding amendments made by the applicant:

- a) **DRP comment:** The aesthetic design response has only been improved. The front entry is still not well articulated in the façade.

**Assessment consultant comment:** In the applicant's amended plans submitted on 31 October 2016, the main pedestrian entry doors from the Princes Highway have been moved forward 300mm to be closer to the front of the building. The building is now recessed approximately 5.2m from the outside façade of the building which is considered to be an acceptable improvement when having regard to the building's frontage to a main arterial road.

The landscape embellishments outlined above are also considered to help improve and demarcate the building entry in line with the recommendations of the DRP.

- b) **DRP comment:** The Panel recommends that the ground floor level of the building be raised to correspond with street level. It is recognised that this will have a minor impact on building height. This would also improve the driveway ramp access to the basement and the design.

**Assessment consultant comment:** The applicant has claimed in the response dated 31 October 2016 that the building was been lowered by 300mm in line with DRP comments to create an improved landscape area over the basement.

The applicant comments that this has resulted in the ground floor level also being lowered, with the necessity now for a ramp to the front entry of the building.

The applicant has claimed that raising of the ground floor level would negate the desire of the DRP for the provision of landscaped area over the basement roof (which is the Ground Floor level).

Having regard to the above, the consultant assessing officer is satisfied the above justification provided by the applicant warrants some degree of flexibility with the position of the ground floor of the building. It is acknowledged that there are building height pressures with the development which have come about through Council's request that the floor to floor heights of the building be increased to 3.1m, and therefore compliant with the ADG.

The consultant assessing officer is also of the belief that the minor 300mm lowering of the ground floor does not significantly impact on the amenity of the development, as compliance with the provisions of the ADG with regard to solar access are still met.

An assessment also supports the applicant's notion that the current design fully complies with Australian Standard (AS1428.1) requirements for accessibility.

On the above basis, it is considered matters relating to the finished ground floor level have been justified.

- c) **DRP comment:** The undercroft area has been redesigned but remains problematic for the following reasons:
- the private open space to Unit 3 is partly under the undercroft as is a window in Bedroom 2;
  - the combination of driveway access, bike parking, fire exits etc within the undercroft space appears as servicing area. There is potential that it will be used as an informal open storage area and be unsightly;

- communal open space creates privacy conflicts with adjacent apartment private open space;
- communal open space under building would have poor solar access and limited amenity.

This undercroft space should be completely eliminated. The Panel suggests that this undercroft area be incorporated in the redesign of Unit 3 and the adjacent communal open space be assigned to this unit. The proponent's decision to provide significant rooftop open space is important and removes the demand for communal open space on the ground level.

**Assessment consultant comment:** The latest revision of the plans dated 26 April 2017 show Unit 3 and the adjoining undercroft area has been further redesigned to minimise the potential impacts and improve the amenity of this area. These design changes include the following:

- The floor area of Unit 3 has been marginally increased to comply with the minimum 95m<sup>2</sup> requirement of the ADG, which in turn has been achieved by relocating the eastern wall by 850mm to the east;
- Bedroom 2 of Unit 3 has been re-located to northern wall of the development, and therefore no longer adjoins the undercroft area;
- Part of the private open space of Unit 3 remains located under the undercroft area, however the principle private open space area, located to the north and not under the undercroft, has been increased to 77m<sup>2</sup>;
- The proposal is now afforded with a large roof top communal area, which has resulted in the removal of the undercroft communal open space area.
- In practicality, the communal undercroft area will be used as a transition space. In this regard, conditions of consent will be included in the draft Notice of Determination requiring additional landscape plantings, softscape features, ceiling and ground floor treatments, and landscaping lighting to improve the amenity of this area and eliminate the opportunity for any unsightliness;
- The BBQ area previously proposed within the undercroft area has been removed;
- The applicant has also submitted that the incidental space referred to above by the DRP is capable to function as an effective sitting area for the elderly as well as children play area during inclement weather;
- A further condition of consent will be imposed to ensure appropriate internal fencing, planter boxes and hard/soft surfaced edge treatments are implemented to demarcate private and communal open space areas.
- The applicant further states that if Council is concerned that this undercroft space would have the potential to be used as storage, they would be willing to accept a condition of development consent restricting such use binding the applicant thus the Body Corporate maintain this area free from any storage purposes.

d) **DRP comment:** A rooftop communal open space has been provided. It is recommended that the roofed area be reduced and some outdoor seating and recreational spaces be provided.

**Assessment consultant comment:** The applicant has submitted an amended Roof Garden Plan dated 26 April 2017, which details the provision of outdoor seating, turfed/planter area, and BBQ facilities.

e) **DRP comment:** Living and dining room in Unit 12 is undersized and compromised by the stairs. Unit 3 Bedroom 2 has poor access to daylight due to the undercroft location. Bedroom 1 does not appear capable of accommodating a double bed.

**Assessment consultant comment:** Unit 12 has been redesigned to increase the size of the living area. Bedroom 2 of Unit 3 has been relocated to the northern wall of the development and now includes a window with direct daylight access. Bedroom 1 now includes internal dimensions of 3.35m x 3m.

- f) **DRP comment:** The interface within the public domain along Princes Highway and Cross Lane needs to clearly demarcate private/public fences, planter boxes and hard/soft surfaced edge treatments. The interface with the public domain to the Princes Highway and Cross Lane needs to be carefully considered from security point of view.

**Assessment consultant comment:** In response, the applicant has included new fence locations, planter boxes and hard/soft surfaced edge treatments to improve the interface with the public domain along the Princes Highway and Cross Lane.

In addition, the applicant has also amended the plans to bring the front entry door 300mm closer to the Princes Highway frontage.

### Design Quality Principles

As required by the *Environmental Planning and Assessment Regulation 2000*, the application is accompanied by a response to the design quality principles contained in Schedule 1 of SEPP65. This response has been prepared by the project's town planner and is copied into the table below, followed by a comment from the consultant assessing officer.

Principle	Comment
<p><b>Context</b></p>	<p>The site is located on a highly prominent location at Princes Highway. The surrounding context is predominantly characterized by a mixture of residential/industrial and commercial land uses. The area is undergoing a transformation with the growing trend of higher density residential flat building developments.</p> <p>Council's Design Review Panel (DRP) recognises that the site is located on the border of another Local Government Boundary and the developments are controlled by different planning controls resulting in larger buildings on the Kogarah side. The Panel also recognises that here is no consistent architectural character in the immediate area.</p> <p>It is to be noted that Council has recently granted consent to a 4 storey residential flat building development at No. 690 Princes Highway which adjoins the subject site.</p> <p>The proposed development is similar to this approved development having regard to the building footprint, setbacks, number of storeys, height, FSR, building mass and the setting. The overall built form presented to the streetscape that is envisaged to occur on a high density residential site.</p> <p>The proposal is considered to be consistent with the desired future character established by the zoning and associated planning controls, and provides an appropriate response to this context and setting of the neighbourhood.</p> <p><b>Comment:</b> The above statement by the project architect is concurred with, the subject site is located within an area that is experiencing rapid transition to a high</p>

Principle	Comment
	<p>density residential environment that also includes mixed land uses within the immediate vicinity of the land.</p> <p>The proposed residential flat building is consistent with recently constructed developments of a similar nature in the surrounding area, and as such can be considered compatible with Council’s desired future character for the precinct.</p> <p>The applicant and DRP make an important note that the subject site adjoins the local government area boundary, where in the adjacent Georges River Council area (formerly Kogarah) much higher density development has occurred and is envisaged with the applicable planning controls. In this instance, the context of the local area is somewhat fragmented.</p> <p>Nevertheless, the proposal is considered to be satisfactory achieving suitable compliance with the relevant planning provisions, and where not, providing appropriate justifications for departures from the planning controls – i.e. minor building height exceedance.</p>
<p><b>Built Form &amp; Scale</b></p>	<p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area. In terms of bulk, scale and built form of the proposed development is consistent with other residential apartment developments in the immediate area, also being 4-storeys in height and on similar sized blocks.</p> <p>The facades are well articulated with balconies and architectural features, recesses in elevations, use of building materials and colour creates visual interest along both streetscapes and also when viewed from adjoining properties.</p> <p>Following receipt of comments from Council’s Design Review Panel, substantial amendments have been made to the design and location of communal opens pace with adequate solar access and daylight penetration allowing substantial communal landscaping. To achieve this the driveway has been relocated to the other side. The basement has also been redesigned to maximise the deep soil zone.</p> <p>The proposal is now considered to be a presentation of modern architecture and complementary to the emerging character of the area which is undergoing a redevelopment.</p> <p><b>Comment:</b> The comments made above by the applicant are generally concurred with.</p> <p>The principal factors governing the bulk and scale of buildings is that of building height and FSR. To this effect, the proposal achieves compliance with the relevant FSR development standards of RLEP 2011, however includes a minor breach (up to 11%) in the building height standards for the lift overrun, staircase and lobby, and pergola structure for the rooftop communal area. Further reference should be made to the assessment of the proposal against the RLEP 2011 provisions later in this report. Nevertheless, it is noted here that the applicant has satisfactorily demonstrated via a Clause 4.6 written request there a sufficient environmental planning grounds to vary the maximum building height,</p>



Principle	Comment
	<p>and that strict enforcement would be unreasonable or unnecessary in the circumstances of the case.</p> <p>Given the above, it can therefore be considered the proposal satisfactorily complies with this design quality principle.</p> <p>In addition, the built form outcome in terms of bulk and scale is considered to be comparative to that of the recently constructed RFBs surrounding the sites – i.e. that adjacent to the site at 690 Princes Highway, Kogarah.</p>
<b>Density</b>	<p>The proposal is limited to 4 storey in height satisfactorily achieving the density controls contained in the RLEP 2011. The FSR is compliant and the overall proposal complies with the size of rooms, balconies and achieves appropriate dwelling yield that is envisaged from a development of this nature.</p> <p>The design has been significantly improved following the review by Council's Design review panel that addresses all concerns raised by Council and the Panel.</p> <p><b>Comment:</b> The comments provided above by the project architect are concurred with. When expressed as an FSR, the proposal's density achieves compliance with the 1:1 FSR limit prescribed by RLEP 2011, and therefore must be considered acceptable.</p> <p>With regard to the number of dwellings being provided in the building, it is noted the current proposed yield of sixteen (16) is commensurate to that of the adjacent building on a comparably sized site (690 Princes Highway) which was recently approved for seventeen (17) dwellings and is now under construction.</p> <p>As demonstrated through the proposal's satisfactory compliance with the relevant planning controls, the yield outcome is considered to result in a density that is capable of achieving apartments with appropriate amenity, parking and storage requirements, without inappropriately impeding on adjoining development.</p>
<b>Sustainability</b>	<p>The built form, orientation and the architectural design of the development provides the required solar access or diffused solar access/daylight to all units. All units provide natural cross ventilation.</p> <p>The Landscaping design would allow substantial planting of trees to contribute to the environmental sustainability.</p> <p>A BASIX Certificate will include any development application lodged with Council.</p> <p><b>Comment:</b> The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 719578M_02.</p> <p>The commitments made result in the following reductions in energy and water consumption:</p> <ul style="list-style-type: none"> <li>- Reduction in Energy Consumption 36 (Target:30)</li> </ul>

Principle	Comment
	<ul style="list-style-type: none"> <li>- Reduction in Water Consumption 40 (Target: 40)</li> <li>- Thermal Comfort Pass (Target: Pass)</li> </ul> <p>The draft Notice of Determination include a condition requiring compliance with BASIX Certificate 629382M_02.</p> <p>The proposal achieves compliance with the solar access and cross ventilation controls contained within the ADG by providing for at least 70% of dwellings that receive at least 2 hours solar access in the winter solstice, and at least 60% of dwellings which are cross ventilated.</p> <p>When taking into consideration the above points, the proposal is considered capable of achieving consistency with the sustainability design quality principle.</p>
<p><b>Landscape</b></p>	<p>The proposal will incorporate generous landscaping on the setback areas and communal open space. The planting will consist of native species of scale and size to appropriately balancing and complementing the building size, scale and bulk. The landscaping strategy will improve the public realm of Princes Highway.</p> <p>A detailed landscaping plan will accompany any development application lodged with Council.</p> <p><b>Comment:</b> As part of the assessment of the subject DA, the proposal was referred to Council's tree referral officer for comment. In response, general support for the proposal has been given, subject to the imposition of consent conditions.</p> <p>The landscaping scheme proposed is considered to satisfactorily address the relevant provisions of the ADG. This includes compliance with the minimum landscaped area provisions, as well as the communal and private open space area controls.</p> <p>Generally the landscaping scheme proposed is considered to be satisfactory, having appropriate regard to the nature and context of the surrounding area which is a high density residential environment adjacent to a major road corridor.</p> <p>With the above in mind, the comments of the applicant in regard to landscaping are concurred with.</p>
<p><b>Amenity</b></p>	<p>All dwelling units within the development achieve the required amenity in terms of privacy, ventilation, solar access and noise. As the property is located on a busy road, the building elements such as window glazing would be selected for noise attenuation. The following matters to be noted:</p> <ul style="list-style-type: none"> <li>- Balcony design follows set guidance for balcony depth and area requirements.</li> <li>- Overlooking from the balconies and living areas are minimized by adequate building separation and staggered location having regard to the approved development at No. 690 Princes Highway,</li> <li>- Accessible route from the car park to the lift has been provided.</li> <li>- Adequate sized communal area has been provided for the enjoyment of the residents,</li> <li>- Room dimensions demonstrate that rooms are sufficient sizes and can be adequately used.</li> </ul>

Principle	Comment
	<ul style="list-style-type: none"> <li>- Adequate Storage facilities have been provided in accordance with guidance.</li> </ul> <p><b>Comment:</b> The key aspects which relate to amenity are considered to be solar access, cross ventilation, acoustic amenity, visual privacy, visual outlook, and the provisions or arrangement of space.</p> <p>The following comments are made in relation to each of the above aspects:</p> <ul style="list-style-type: none"> <li>- Solar Access: A minimum of 70% of dwellings will achieve at least 2 hours solar access at the winter solstice. This complies with the provisions of the ADG.</li> <li>- Cross Ventilation – A minimum of 60% of the dwellings will be cross ventilated, again complying with the provisions of the ADG.</li> <li>- Acoustic Amenity – submitted with the DA is an Acoustic Report prepared by a suitably qualified acoustic engineer. This report includes recommendations to ensure dwellings are suitably attenuated from the impacts of road noise and mechanical plant/equipment. The recommendations of the Acoustic Report have been included within the conditions of consent to ensure suitable acoustic amenity is afforded to dwellings.</li> <li>- Visual Privacy – balconies and windows are been suitably located to ensure overlooking impacts are minimised. In addition, the applicant’s latest amended plans have improved building separation distances with regard to the requirements of the ADG, and as such are considered sufficient to deliver an appropriate level of visual privacy.</li> <li>- Visual Outlook – it is acknowledged that the subject site is located adjacent to a major arterial road, however the development will still provide for a comprehensive landscape scheme and a rooftop communal open space area which can assist with improving the visual aspects of the proposal in the site’s busy environment.</li> <li>- Space – the dwellings within the development all meet the minimum apartment sizes as per the provisions of the ADG, and will also provide compliant storage areas and parking for the residents.</li> </ul> <p>Accordingly, given the above, the amenity design quality principle is satisfactorily achieved.</p>
<p><b>Safety</b></p>	<p>The proposed development has been designed taking into consideration the CPTED principles to eliminate any opportunity of concealment. It provides safe and direct access from the road. Apartment design would also permit passive surveillance.</p> <p><b>Comment:</b> Amendments have been made by the applicant to help improve the level of safety afforded to residents and visitors of the building. It is noted that in Council’s additional information letter issued on 28 September 2016 the following comments requests were made in relation to building safety:</p> <ul style="list-style-type: none"> <li>- The interface with the public domain to the Princes Highway and Cross Lane needs to be carefully considered from security point of view.</li> <li>- The deeply recessed entrance door creates a place of concealment and should be moved closer to the front of the building.</li> <li>- The DRP is also concerned that should a children’s play area be proposed at ground floor, it should be made secure by fencing and be</li> </ul>

Principle	Comment
	<p>provided with good surveillance from other parts of the site and apartments above.</p> <p>The applicant's response on 31 October 2016 was to submit amended plans demonstrating the following:</p> <ul style="list-style-type: none"> <li>- The interfaces between the development and public domain of Princes Highway and Cross Lane have clearly been defined by planter boxes and landscaping treatment as shown in the landscaping plan.</li> <li>- As advised by the DRP and subsequent the meeting with you, we have revisited the design of the entry doors and amended the plans by pushing the doors forward by 300mm.</li> </ul> <p>With regard to the children's play area on the ground floor, it is considered this can be satisfactorily addressed by way of condition requiring appropriate lighting, CCTV</p> <p>Having regard to the above, the proposal is therefore considered satisfactory when having regard to safety.</p>
<p><b>Housing diversity and social interaction</b></p>	<p>The proposed development incorporates a mix of unit types in order to provide housing choice. The location of the site is advantaged by being in an area close to public transport, recreation and shopping facilities contributing to the social mix of the locality.</p> <p><b>Comment:</b> The proposal includes a satisfactory mix of dwellings to enable sufficient housing diversity across the development. This includes 18.75% of dwellings as one-bedroom, 75% of dwellings as two-bedroom, and 6.25% of dwellings as three-bedroom.</p> <p>Furthermore, the proposed rooftop communal area will enable social interaction within the building. This is complimented by ground level communal areas which will also give residents the opportunity to socially integrate.</p> <p>It is noted that ground floor dwelling facing the Princes Highway have not been given private open spaces within the front setback. Given the nature of the Princes Highway as a major arterial road, it is not reasonable to promote social interaction between residents and pedestrians in the public domain.</p>
<p><b>Aesthetics</b></p>	<p>The overall design of the development has been derived from the site analysis adequately taking into consideration:</p> <ul style="list-style-type: none"> <li>- the topography,</li> <li>- possible impact on the residential amenity of the future residents of immediate neighbouring properties in terms of privacy and overshadowing the expected future developments, and</li> <li>- the street presentation of development with respect to the desired visual character of the area. The design of the apartments provides for a spacious internal layout which is both functional and practical and provides for a modern living which fits well within current design concepts of the contemporary architecture.</li> </ul>

Principle	Comment
	<p>Externally, the building presents a combination of architectural features combined with asymmetric street elevation successfully creates visual interest in the built form whilst satisfactorily achieving the desirable architectural style that that is expected to shape the future streetscape of the street block.</p> <p>The external finishes will include a mixture of treatments such as selected wall cladding, selected framed windows and doors, tinted glass balustrade combined with selected roofing materials with appropriate colour scheme which is intended to provide a distinct character of the proposed building.</p> <p>The most prominent architectural design feature is its response to the site constraints and opportunities in order to provide a contemporary layout without compromising the architectural design principles. It is expected that the building will create a high architectural benchmark shaping the future physical setting of the neighbourhood.</p> <p><b>Comment:</b> In relation the originally submitted plans with the DA, and in response to the above point, it is noted the DRP indicated that although general architectural treatment has slightly been improved, the façade treatment still fails to highlight the front entry.</p> <p>This point was essentially put to the applicant as part of Council’s additional information request letter on 28 September 2016. In response the applicant has included new fences, planter boxes and hard/soft surfaced edge treatments to improve the interface with the public domain along the Princes Highway and Cross Lane.</p> <p>In addition, the applicant has also amended the plans to bring the front entry door 300mm closer to the Princes Highway frontage.</p>

## Apartment Design Guidelines

The proposed development has been assessed against the NSW Apartment Design Guideline (ADG) - refer to the completed compliance tables for full compliance check under a separate cover. The proposal was found to satisfy all the design objectives of the guide, despite providing for a numerical non-compliance to two (2) design criteria. These non-compliances against the design criteria are discussed as follows:

### Part 3F Visual privacy

The design criteria for Part 3F of the guidelines prescribes minimum separation distances to be provided between windows and balconies from a building to the side and rear boundaries, as reproduced below:

### Design criteria

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

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

The proposal incorporates four-storeys with a height of 13.4 metres measured from the building roof top edge, and a height of 16.18 metres measured from the lift overrun. In accordance with the definition of 'storey' under the RLEP 2011, a space that contains only a lift shaft, stairway or meter room is not considered as a storey. In this regard, the lift and stairways access to the communal roof top terrace located on the fourth storey is not defined a storey. It is noted that a toilet adjoins the lift on the fourth storey, which would technically constitute a storey.

The proposal provides for a 6 metre separation distance from the building to the side boundaries and a 9.29 metres distance to the rear boundary, which satisfies the separation distances for buildings of 4-storeys. Despite the technical storeys and height non-compliance, the proposal is considered to be acceptable as demonstrated by the following reasons:

- The height associated to the lift overrun facilitates for equitable access to the communal roof top terrace;
- The height associated to the building roof top edge is the result of an extending parapet line to provide for a planter boxes and boundary walls that encloses the communal roof top area;
- The communal roof top provides for improved amenity for the future residents with increased opportunities for casual social interaction, direct access to sunlight, and a high-quality space for passive recreation opportunities;
- The proposed toilet occupies 1.2m<sup>2</sup> of floor area and directly adjoins the lift shaft. Therefore, the toilet is not considered to contribute to the bulk of the development as it is located within the existing roof form;
- The toilet will contribute to the usability and amenity of the roof top open space;
- Adjoining developments maintain satisfactory solar access compliance;
- The proposed provides for an acceptable land use intensity and bulk through the achievement of a compliant floor space ratio;
- The proposed built form is considered to be coherent to that of recently constructed mixed-use buildings across the road of Prices Highway, and to that of the recently approved and currently under construction residential building immediately to the south at 690 Princess Highway;
- As further demonstrated within this report the design of the proposed development accords with the changing streetscape of Princes Highway and Cross Lane.

## Part 4C Ceiling heights

The design criteria for Part 4C sets out that the minimum ceiling heights for apartments and mixed use buildings is to be 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms. The objective for this design criteria further describes the purpose of ceiling heights is facilitate access to natural ventilation and daylight.

The proposal provides for complying 2.7 metres ceiling heights for all habitable rooms, and 3.1 metres floor to floor heights within the development. The proposal however, provides for a non-complying a ceiling height of 2.3 metres to the eastern portion of the basement car parking level (non-habitable).

The proposed variation is considered acceptable as demonstrated by the following reasons:

- The non-compliance equates to a 0.1 metre or 4.3% variation to the design criteria;
- The proposed height of 2.3 metres is suitable for the purpose of car parking, being capable of permitting the passage of vehicles and subsequent pedestrian movement to stairs or lifts;
- The basement level is located fully below ground and therefore no natural lighting or ventilation will be achieved should the proposal be made to comply;
- The basement level is not an active use space wherein people do not tend to linger;
- Council's Development Engineer who reviewed the proposal, does not object to the proposed 2.3 metres basement ceiling height.

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

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

The proposed development is not considered to be located within a prescribed distance of an electrical asset to warrant written notice to the electrical supplier (Ausgrid) before determining the DA.

In accordance with Ausgrid's advice for multi-unit and large developments which involve more than 6 separate units, the proposal may require the electrical network to be extended or augmented. In this regard, the following conditions of consent are recommended to be imposed on the approval:

#### *1. Ausgrid*

- (i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.*
- (ii) All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.*

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

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

The proposed development is located on land with a frontage to a classified road i.e. Princes Highway. In this regard, clause 101 'Development with frontage to a classified road', of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) must be considered before consent can be granted.

Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS).

The RMS has responded granting concurrence under Section 138 of the Roads Act 1993, subject to Council's approval and a number of conditions being included in Council's Notice of Determination. These conditions relate to redundant driveways, kerb and guttering, payment of plan checking fees, structures being located within the property boundary, the submission of detailed design drawings, road occupancy licences and construction zones. Notations are also provided in relation to investigation areas for the proposed M5 WestConnex project and F6 project.

Accordingly, the aforementioned conditions by the RMS have been included within the draft consent.

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

The proposed development is for residential accommodation that is on land in or adjacent to the 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). Furthermore, it is the opinion of the consultant assessing officer that the proposal is likely to be adversely affected by road noise or vibration.

Accordingly, Clause 102 'Impact of road noise or vibration on non-road development' of the ISEPP is required to be considered as part of this DA.

In this regard, it is noted the consent authority (in this case Council) must not grant consent to the development for a 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 anytime.

The proposal was accompanied by an Acoustic Report, prepared by Koikas Acoustics Pty Ltd and dated 6/04/2016, which considered the potential impact of road noise on the proposed development.

The report concludes that the development will satisfy the noise level requirements as outlined in the ISEPP, so long as the recommendations in the submitted Acoustic Report are incorporated into construction. These recommendations include specific treatments to the ceiling/roof system, external walls, windows and doors. Recommendations are also made in relation to mechanical plant and noise.

Accordingly, the recommendations of the Acoustic Report have been incorporated as conditions in the draft Notice of Determination.



## Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Between 20 and 25 ANEF (2033) contours	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

### 2.3 Zone R4 High Residential Use

The subject site is zoned R4 High Density Residential Use under the provisions of *Rockdale Local Environmental Plan 2011* (RLEP 2011). The proposed development is defined as a residential flat building, which constitutes a permissible form of development with Council consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed residential flat building development is consistent with the objectives of the zone as it will result in a compatible land use, integrating a high density residential development in an accessible location. This will encourage the use and patronage of public transport as the site is within 520m walking distance of the Kogarah, along with walking and cycling within the adjacent Kogarah Town Centre.

### 4.3 Height of buildings

The maximum building height for the land on the Height of Buildings Map is 14.5 metres. The height of the proposed building is 16.18 metres (to the top of lift overrun) and therefore exceeds the maximum 14.5 metres height shown for the land on the Height of Buildings Map. The proposal was accompanied by Clause 4.6 written request seeking an exception to the Maximum Height of Buildings development standard. See discussion as follows.

#### 4.6 Exceptions to development standards

Exception to Clause 4.3 – Height of buildings:

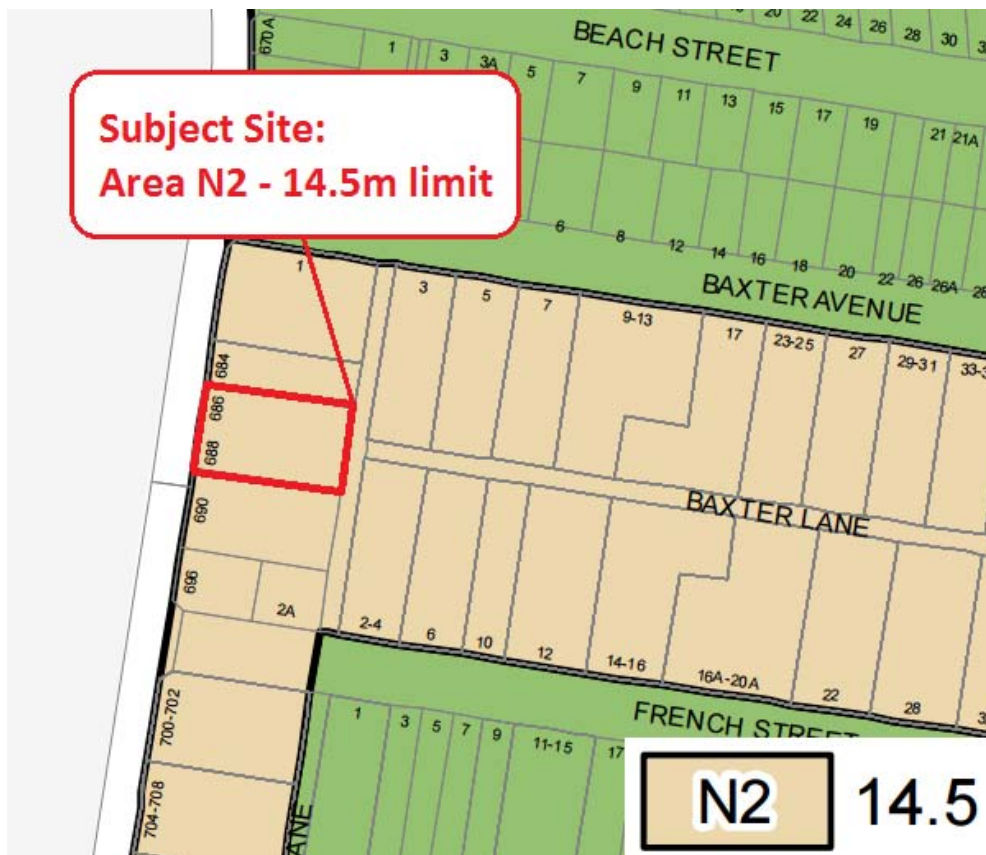
Clause 4.3 includes objectives and development standards which impose limits the height of buildings on land where the RLEP 2011 applies.

The objectives of the development standard under clause 4.3(1) 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.*

Clause 4.3(2) prescribes that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Below is an extract of the Height of Buildings Map taken from the RLEP 2011 which demonstrates that a 14.5m high building height limit applies to the subject site and also the immediate surrounds.



**Figure 2:** Extract of Height of Buildings Map from the LEP. Noted in this image is the 14.5m building height limit that applies to the subject site and surrounds

Source: Rockdale Local Environmental Plan 2011, Last updated 05 August 2016. Map Index see tile 004.

While it is acknowledged that clause 4.3(2A) and (2B) allow for alternative building height limits for select areas, it is noted the subject site falls outside of the nominated 'areas' and as such, the prevailing building height limit of 14.5m would apply.

An assessment of the applicant's current plans for the proposal has revealed that the building would fail to achieve compliance with the 14.5m height limit.

The areas of non-compliance with the height limit are as follows:

- Lift overrun – 1.68m comprising an area of 4.94m<sup>2</sup>
- Stair and lift lobby – 300mm comprising an area of 25.7m<sup>2</sup>
- Roof over communal area – 400mm comprising an area of 53.9m<sup>2</sup>

In terms of percentage variation to the development standard, at 16.18m the building is 11.6% over the 14.5m height limit. However it is important to note this is only for the lift overrun.

The roof over the communal area represents only a 2.8% variation, and the stair and lift lobby only a 2.1% variation.

When looking at the total area of the building breaching the building height limit, this is confined to an area of 84.54m<sup>2</sup>, or 19.64% of the overall building footprint.

Clause 4.6 of the RLEP 2011 includes exceptions to development standards where a written request from the applicant seeks to justify the contravention of the development standard.

Clause 4.6(3) indicates that 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.

Clause 4.3 does not contain a provision which specifically excludes the application of Clause 4.6 of the RLEP 2011. As such, clause 4.3 is a development standard for which clause 4.6 applies.

A Clause 4.6 Objection to building height limit has been submitted to Council for consideration in the variance to the subject development standard. The Clause 4.6 Objection has been prepared by a suitably qualified town planner in accordance with the NSW Government's publication 'Varying development standards: A Guide' August 2011.

In the opinion of the consultant assessment officer, the Clause 4.6 Objection has adequately justified the contravention of the development standard. In particular, the applicant has justified that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as well as demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, in accordance with clause 4.6(3) of RLEP 2011.

Further to the above, the submitted Clause 4.6 Objection has appropriately demonstrated that the proposed development will be in the public interest because it is consistent with the objectives for development within the R2 zone.

A review of the submitted Clause 4.6 Objection has considered the applicant's reasoning for varying a development standard. As such, it is of the opinion of the consultant assessing officer that it would be unreasonable and unnecessary to achieve compliance with the development standards in the

circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard, for the following reasons:

- The 14.5m building height limit has been in place under the provisions of the RLEP 2011 since gazettal on 5 December 2011. When the RLEP 2011 was gazetted, the Residential Flat Design Code for SEPP65 prescribed a floor to floor height for residential flat buildings of 3m. However, since then the Apartment Design Guide (ADG) and amended SEPP65 released in mid-2015 has increased the floor to floor height on residential flat buildings to 3.1m. This 100mm increase has effectively raised the height of residential flat buildings which becomes more pronounced the more storeys a building includes. The RLEP 2011 has not amended the 14.5m building height limit for the area since the introduction of the ADG, and as such it becomes somewhat unreasonable for a residential flat building to achieve compliance with clause 4.3 when compliance with the ADG must also be achieved.
- The proposed non-compliant sections of the building are typically set in from the external perimeter of the building and will not be overly visible or discernible from the public domain.
- The proposed non-compliances will not result in any significant amenity impacts upon adjoining properties including unreasonable overshadowing.
- The proposal will not result in any unreasonable impacts upon either adjoining properties or the streetscape as a result of the non-compliance.
- The majority of the building height non-compliance is attributable to providing both equitable access to the roof top common open space as well as weatherproofing to part of the communal open space. The non-compliance is not attributable to any habitable floor area of the building.
- The site is affected by Clause 6.4 (Airspace Operations) under the RLEP 2011. A review of the Obstacle Limitation Surface (OLS) maps identifies the site is located within an area affected by a height limitation of 51m AHD, which the development is well within and therefore complies. However, this site is also specified land under Schedule 1 of the *Civil Aviation (Building Control) Regulation 1988* and a 15.24m height limit applies.

Therefore, given the proposed height of the building and structures encroach the 15.24m limitation, a referral of the applicant's latest plans to Sydney Airport was undertaken by Council. In Sydney Airport's response dated 17 May 2017, it was commented that the Airfield Design Manager has no objection to the erection of this development to a maximum height of 30.3 metres AHD. 30.3 meters ADH is noted as being the highest point of the building.

Standard conditions relating to temporary structure above this height, i.e. cranes etc. are included within the referral and will be included in the draft consent.

- The proposal is also considered to be consistent with the objectives of Clause 4.3 – Height of Buildings in that:
  - The proposal provides for all of its permitted gross floor area within a built form which complies with the maximum permitted height.
  - The proposal is considered to provide for a building having a high quality urban form.

- The proposal will not result in any unreasonable reduction in access to sky exposure and daylight from the adjoining public domain or adjoining buildings as the areas of non-compliance are generally recessed from the perimeter of the building.
  - The bulk of the proposal is of a height which it is considered will provide an appropriate transition in built form and land use intensity.
- It is the opinion of the consultant assessing officer that there is no overwhelming public benefit that can be argued for strict maintenance of the development standard in the circumstances of the case.
  - There is public benefit provided through the provision of a high quality rooftop communal open space in that this helps reduce demand for public spaces which would otherwise be relied upon by residential flat buildings that were provided with insufficient or poor quality communal areas.

Have regard to the above points, it is considered that enforcing compliance with the aforementioned development standard would be unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard in this instance.

#### 4.4 Floor space ratio

The gross floor area (GFA) of the proposed development has been calculated as 1,286.96m<sup>2</sup>. The site area is 1,289m<sup>2</sup>. In this regard, the proposed floor space ratio (FSR) for the building is 1:1 and therefore does not exceed the maximum FSR for the land (1:1) as shown on the Floor Space Ratio Map.

Further, the proposed density is in accordance with the desired future character for this area of Kogarah and will have minimal adverse environmental effects on the use or enjoyment of adjoining properties. The buildings will also maintain an appropriate visual relationship between new development and the existing character of the area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in RLEP 2011.

#### 5.9 Preservation of trees or vegetation

Observations made during a site inspection suggests that the land contains some minor vegetation in the central north portion of the site. Refer to site inspection photos earlier within this report.

Council's Tree Management Officer has reviewed the application and does not object to the removal of the existing site vegetation. The submitted landscape plan prepared by the applicant's landscape architect, Ray Fuggle, provides that appropriate tree replacement plantings be included into the development site.

Accordingly, the provisions of clause 5.9 of the RLEP 2011 have appropriately been taken into consideration, and subject to recommended conditions of consent are therefore satisfied.

## 6.1 Acid Sulfate Soil - Class 5

The subject site is identified as potentially containing Class 5 Acid Sulfate Soils (ASS). The proposed development includes excavation of approximately 3m, which reaches to a depth of about 11.35m AHD.

The development was accompanied by a Preliminary Geotechnical and Acid Sulfate Soils, Assessment prepared by Martens Consulting Engineers and dated 1 September 2016, which considered the potential impact of ASS. The report concluded that:

*As minor groundwater inflows are expected during excavations, and given the offset distances to Class 2 and 3 risk areas from the site, we conclude the proposed development is unlikely to adversely impact groundwater conditions in the Class 2 and 3 risk areas.*

*Based on RLEP mapping (2011) of ASS risk and geomorphic characteristics, further site testing is deemed unnecessary. However, if dewatering is required as part of the proposal, then further assessment of impacts on groundwater conditions at identified Class 2 and 3 risk areas is recommended.*

In this regard, the preparation of an Acid Sulfate Management Plan is not considered to be necessary. This means the proposal satisfied the provisions of clause 6.1 of the RLEP 2011.

## 6.2 Earthworks

Clause 6.2 requires the consent authority to consider the impact of any earthworks will have on environmental functions and processes, neighbouring uses, cultural or heritage items or features of surrounding land.

In consideration of stormwater management, appropriate stormwater management conditions of consent as recommended by Council Development Engineer have been imposed in the Draft Notice of Determination. Refer to discussion under Clause 6.7 Stormwater further below in this report.

In consideration of neighbouring uses, the basement car park shall be constructed 2m from the northern and southern boundaries, 3.5m from the western boundary, and 3.9m from the eastern boundary, and therefore may impact on the structural integrity of adjoining developments. The development was accompanied by a Geotechnical Report prepared by STS GeoEnvironmetnal Pty Ltd, Report No. 15/2936A, dated May 2016. The report outlines recommendations to ensure developments on adjoining properties are not damaged, and that the foundation design is adequate for the proposal. Council's Development Engineer has reviewed the proposal, and has requested that a condition of consent be imposed ensuring that all the recommendations of the Geotechnical report be implemented prior to the issue of a construction certificate.

There are no cultural or heritage items within the vicinity of the proposed development. The features of surrounding land do not preclude the development of a residential flat building with basement car parking.

Accordingly, the objectives and provisions of this clause are satisfied.

## 6.3 Between 20 and 25 ANEF (2033) contours

The suburb of Kogarah, comprising the subject site, is located outside of the ANEF 20 contour as identified by figure 14.5 (Sydney Airport 2033 ANEF) of the Sydney Airport Master Plan 2013.

## 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51 metres AHD. The building height is at 16.22 metres (RL 30.35 to the top of the lift overrun) and therefore will not penetrate the OLS.

However, the location of the proposed development does lie within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

Accordingly, the proposal has been referred to the Sydney Airport Authority. The authority has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the clause and is acceptable in this regard.

## 6.7 Stormwater

The application was referred to Council's Development Engineer for review and comment.

The referral response outlined that the proposed plans are not supported due to the On-Site Detention system / control pits being located within the required footway easement area of Cross Lane, and that the applicant is required to redesign the stormwater system.

In this regard, Council's Development Engineer recommends amended detailed drainage design plans for the management of stormwater be submitted to the Principal Certifying Authority for assessment and approval prior to the issue of a Construction Certificate.

Accordingly, subject to recommended conditions being incorporated in the draft Notice of Determination, the proposal is acceptable with regards to 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**

No relevant proposed instruments are applicable 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>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes
4.1.6 Development on Sloping Sites	Yes	Yes
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Building	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building	Yes	Yes
4.3.3 Communal Open Space	Yes	Yes
4.4.2 Solar Access - Residential Flat Buildings	Yes	Yes
4.4.3 Natural Lighting and Ventilation - Residential	Yes	N/A – clause 6A(1)(b) and (g) of SEPP 65 means this development control has of no effect.
4.4.3 Natural Lighting and Ventilation - Ceiling heights	Yes	No – see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy – separation	Yes	N/A – clause 6A(1)(a) of SEPP 65 means this development control has of no effect.
4.4.5 Visual privacy – roof top area	Yes	Yes – see discussion
4.4.5 Acoustic privacy	Yes	Yes – see discussion
4.4.5 Visual and Acoustic Privacy - Building Separation	Yes	N/A – clause 6A(1)(a) of SEPP 65 means this development control has of no effect.
4.4.6 Noise Impact	Yes	Yes – see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes – see discussion



<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.5.2 Social Equity - Equitable Access	Yes	Yes – see discussion
4.6 Car Parking, Access and Movement	Yes	Yes – see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes – see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes – see discussion
4.7 Service Lines/Cables	Yes	Yes
5.2 RFB – General	Yes	Yes
5.2 RFB – Rear Setbacks	Yes	Yes – see discussion
5.2 RFB – Balcony Balustrade	Yes	Yes – see discussion

#### 4.1.1 Views and Vista

The subject site is not located on a ridge line nor is it particularly visible within the locality. Furthermore, the site is not afforded any view of Botany Bay or the any items of local or State heritage. In this regard, the subject site does not enjoy any significant views or vistas.

The siting of the proposed building ensures that there will be minimal impacts on the views of the street and general neighbourhood that are enjoyed by adjacent properties.

#### 4.1.2 Heritage – vicinity

The nearest item of heritage to the subject site is Banbury Cottage (item I209) and is located over 200m to the north. The spatial distance between the subject site and heritage item is considered to be sufficient to ensure the heritage item is not impacted by the proposed development.

#### 4.1.3 Water Management

As discussed under clause 6.7 Stormwater earlier within this report, the proposed development has been reviewed by Council’s Development Engineer, who subject to recommended conditions of consent does not object to the water management of the proposal.

#### 4.1.4 Soil management

The proposed development will involve considerable earthworks for the construction of the basement car parking level, which will result in the disturbance of soil and dust.

In this regard, a condition of consent requiring a Soil and Water Management Plan prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils, shall be required to be submitted to the Principal Certifying Authority prior to the commencement of works.

#### 4.1.9 Lot size and Site Consolidation – Avoidance of isolated sites

In accordance with RDCP 2011, a property will be isolated by a proposed development when that property cannot satisfy the minimum lot requirements to achieve its development potential under the planning controls.

Land adjoining the subject site at 684 Princes Highway, Kogarah has the potential to become isolated as a result of the proposed development as it fails to meet the minimum lot width requirements for residential flat buildings, or mixed use development under the relevant planning controls.

It is noted that land further north of the isolated site is a large parcel of land which forms a corner lot, and the features of this site indicate it is capable of further economic development in its own right.

As part of the assessment of the subject DA, concerns were first raised with the applicant over the impact of the proposed development on the future development the aforementioned isolated site in an additional information letter dated 28 September 2016.

The applicants' response letter dated 31 October 2016 did not satisfy Council that the issue of site isolation has been satisfactorily addressed.

Based on the relevant considerations under the RDCP 2011, as well as planning principles established by the NSW Land and Environment Court in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 (at 17-19) references *Melissa Grech V Auburn Council* [2004] NSWLEC40, the following was raised for the applicant's consideration and response.

- a. The negotiations between the subject land owner and the adjoining land owner should have occurred as part of the initial site feasibility considerations, prior to the lodgement of the development application. These negotiations are relevant considerations for developments despite whether it is included as a provision in a local plan or policy. Therefore, conjecture over claims that such negotiations should not be forced upon the applicant by Council due to the amount of time it would take to contact and initiate discussions with the adjoining land owner(s) does not give a firm ground for support.
- b. Contact with land owner(s) should occur via title search and written advice. Copies of such written requests/advice to land owners should be provided to Council to demonstrate written evidence of efforts to acquire that lot to amalgamate with the subject site.
- c. Reasonable offer to purchase and expenses to be incurred must have been made (including a recent independent valuation).
- d. Should no negotiations be reached, the potential economic development of the adjoining lot should be addressed by the applicant.

The applicant was reminded in a further additional information letter in March 2017 that whilst the northern lot is under strata title, recent reforms (November 2016) to NSW strata laws meant that in order for acquisition of a building under a strata plan to occur, unanimous vote for that sale or transaction is no longer required. Therefore, this was to be taken into consideration with the applicant's response to Council.

In the instance that the valuation of the adjoining site is likely to result in a net loss on return for the investment on land, the applicant was advised to demonstrate this to Council in writing in accordance with the established planning principles in *Melissa Grech V Auburn Council* [2004] NSWLEC40.

In a response letter dated 8 May 2017, the applicant provided a Valuation Report from Clisdells which concludes that the current value of the existing Strata development erected upon the

adjoining site at 684 Princes Highway outweighs the value of the site as a development site. The following figures are taken from the submitted valuation report:

- Total value of strata lots - \$2,780,000.00 (excl. GST)
- Land value as development site - \$2,425,000 (excl. GST)

On the basis that it would not be economically viable or reasonable to require the applicants for 686-688 Princes Highway to consolidate their site with 684 Princes Highway, it is therefore considered site isolation to be unavoidable and thus appropriate to vary the development controls under Part 4.1.2 and Part 4.1.3 of the RDCP2011.

It may also be argued that this adjoining site is already developed to a significant scale and density that is commensurate to the land area of 684 Princes Highway and the applicable planning controls. This is because the land at 684 Princes Highway already accommodates six (6) commercial strata premises over a three (3) storey building.

#### 4.2 Streetscape and Site Context - General

The subject site is located within a R4 High Density Residential zone that adjoins the Princess Highway corridor which leads into Rockdale Town Centre. As evident by the construction occurring in the vicinity, the local area is considered to be undergoing an urban form transition.

The local area is characterised by modern shoptop and residential flat building developments occurring along Princess Highway, and 1960-70's three (3) and four (4) storey 'walk-up' apartment blocks located east of Princes Hwy. In this regard, the proposal is considered to support the urban form transition occurring along Princess Highway with the development of a modern residential flat building incorporating high levels of internal amenity, and it will not impact on the older contextual developments to the east by Cross Lane, as it is visually detached from these developments by Cross Lane.

Immediately to the north is a three (3) storey commercial building adjoining constructed in 2006, and immediately to the south is a four (4) storey residential flat building of a similar size and style as the proposal that is under currently construction. In this regard, the proposed building design is considered to be appropriate to the immediate streetscape of both Princes Highway and Cross Lane.

Given the nature of the site and the changing context of the area, the development has been designed to extend to both frontages with appropriate setbacks, landscape screening, and vehicular access, thus providing for an appropriate contribution to the applicable streetscapes.

#### 4.2 Streetscape and Site Context – Fencing

The submitted landscape plan and architectural plans do not provide specific fence details associated to the proposed development. The landscape plan does illustrate that high levels of low-height plantings will be provided within the street setback area of the Princes Hwy and Cross Lane frontages, which is considered to enhance the immediate streetscape character and will permit opportunities of passive surveillance.

It should be noted that development for front fences is permitted by *State Environmental Planning Policy (Exempt and Complying Development Code) 2008* (codes SEPP), subject to compliance with the development standards contained therein. Alternatively, should the development seek to

consent for a front fence that does not satisfy the development standards of the codes SEPP, then approval can be sought from Council.

In this regard, no further consideration of front fencing is required.

#### 4.3.1 Open Space and Landscape Design - Residential Flat Building

It is noted that limited vegetation currently exists on the subject site. The proposed development was submitted with a landscape plan prepared by Ray Fuggle and dated 29 April 2016. This plan illustrated that appropriate levels of landscape plantings shall be incorporated into the development. The design of the proposal has been amended several times since the preparation of the landscape plan, which has resulted in the landscape plan being inconsistent with the amended architectural plans and landscape plan.

In this regard, a condition of consent requiring a revised landscape plan designed in accordance with the most recent architectural plans to be submitted to the Private Certifier prior to the issue of a Construction Certificate, is recommended within the draft Notice of Determination.

#### 4.4.5 Visual Privacy – roof top area

Part 4.4.5 of the RDCP 2011, outlines that the use of the roof top area for recreational purposes is permissible as long as the usable area of the roof is setback at least 1500mm from the edge of the building, and that other devices such as privacy screens and planter boxes to be incorporated to protect the visual and acoustic amenity of neighbouring properties.

The amended Roof Garden Plan, dated 26 April 2017, identifies that no non-trafficable area is provided along the building edge. This is considered to result in adverse privacy impacts to adjoining properties.

In this regard, a condition of consent requiring the perimeter of the roof top communal area to be non-trafficable for at least 1.5m from the building edged, and that the non-trafficable area be appropriately landscaped, is recommended within the draft Notice of Determination.

#### 4.4.5 Acoustic Privacy and 4.4.6 Noise Impact

The design of the proposal has considered the internal acoustic impacts resulting from the use of the building, such that the driveway and communal open space are appropriately located to minimise acoustic impacts, and the bedrooms do not share walls with adjoining neighbouring units.

The proposal was further accompanied by an acoustic assessment, prepared by Koikas Acoustic and dated 6 April 2016, which provided for recommendations to ensure compliance for a 5 Star rating AAAC Acoustical rating, including the location of air conditioning units. The air conditioning units are appropriately screened by privacy screens.

The draft Notice of Determination includes a condition of consent requiring compliance with the acoustic assessment.

#### 4.5.1 Housing Diversity and Choice

The proposal provides for three (3) x 1-bedroom units (18.75%), twelve (12) x 2-bedroom units (75%), and one (1) x 3-bedroom unit, which represents a minor variation to the prescribed residential flat building dwelling mix requirement. However, this Part of the DCP further outlines that dwelling mix may be refined with regard to:

- Location of development to public transport, public facilities, employment areas, schools, and retail areas;
- Population trends; and
- Whether development is for affordable housing/ community housing or non-for-private organisation.

As such, it is noted that the development is located a 510 metre walk from Kogarah Town Centre and Kogarah Train Station. Furthermore, in accordance with id. profile, Rockdale exhibits a slight downward trend in household size (2.7 persons per household in 2011 and 2.67 persons in 2021).

Therefore, as the proposal is located close to the train station and in considering general population trends, supports the facilitation of smaller families and single persons living arrangements as represented by the proposed dwelling mix, the proposed dwelling mix is supported.

#### 4.5.2 Social Equity - Equitable Access

The proposed development provides ramped access where required from public areas to the development, two (2) accessible parking spaces are provided in the basement close to the lift location. The communal open space areas on the roof is accessible via the lift.

An Access Compliance Assessment Report prepared by BCA Vision accompanied the development application. The Access report identifies that the proposed development is capable of satisfying the accessibility requirements of the DDA and BCA. In this regard, the proposed development can be considered to be suitable from an accessibility perspective.

The draft Notice of Determination includes a condition of consent requiring compliance with the BCA which includes accessibility provisions.

#### 4.6 Car Parking, Access and Movement

The proposed development provides for a complying seventeen (17) parking space for residents, two (2) of which are accessible, four (4) car parking spaces for visitors, one (1) of which also doubles as a car wash bay, within the basement car park level. Six (6) bicycle spaces are further provided on ground level adjacent to the communal open space.

The location of the vehicle access point off Cross Lane is considered to be rational and suitable. The development fronts a classified Road, being Princes Highway, for which recommended conditions of consent are requested by RMS.

The application is supported by a traffic report which outlines the expected trips generation for the development (based on the 2012 RMS Traffic Generating Development Guidelines). Based on the content of the report, it is expected that the development will generate 6.4 trips during peak periods. It has been calculated that these rates are based on the survey guide provided form AM trips which is 0.4 for 3 up to 2 bedroom units at 0.5x 1 for 3 bedroom units (15 upto 2 bedroom and 1 x 3 bedroom proposed). The report outlines that compared to previous land use (warehouse building) the development is likely to have same or less impact to traffic within the locality.

The proposed car parking, access and movement was considered by Council's Development Engineer who provides no objection subject to recommended conditions of consent, which are included in the Draft Notice of Determination.

#### 4.7 Air Conditioning and Communication Structures

The proposed development will include air conditioning units for each dwelling. The accompanying acoustic report has made recommendations as to their locations to secure the amenity of adjoining residences. The units are small domestic scale units and will not be visually intrusive.

Part 4.7 of the RDCP 2011 requires that for each building comprising two (2) or more dwelling that a master TV or satellite dish to be provided. The submitted plans and Statement of Environmental Effects does not include any reference to master antenna or satellite dish. In this regard, the draft Notice of Determination will include a condition of consent requiring a master TV or satellite be incorporated within the development.

#### 4.7 Waste Storage and Recycling Facilities

The proposal has been reviewed by Council's waste management officer, who advised that the bin utilised for the ongoing waste and recycling collection service will be 240 litre MGBs (four 240 litre garbage and four 240 litre recycling bins).

The storage area for the MGBs is adequate to store the MGBs and bulky waste.

#### 5.2 RFB – Rear setbacks

The proposed development provides for a minimum rear setback of 9.29m measured from the balcony wall on the eastern façade to the frontage of Cross Lane, which represents 29% variation to development control requiring a minimum 12m setback.

Despite the variation to this development control, the proposal is considered to satisfy the objectives of the development controls as demonstrated by the following reasons:

- The rear setback measured from the rear building wall is 11.18m, for which the rear facing balcony encroaches by 1.9m, resulting in a technical setback of 9.29m. The encroachment is considered to provide for articulation, improved visual interest, and opportunities for passive surveillance to Cross Lane;
- The proposed rear setback/ secondary frontage setback to Cross Lane is coherent with adjoining developments;
- The reduced setback will not result in any additional impacts on the visual and acoustic amenity compared with a development with a complying setback, due to the fact that there are no properties that adjoin the subject development to the rear;
- Adjoining properties maintain satisfactory solar access;
- Proposed setback provides for appropriate view sharing of the local neighbourhood, and maintains the existing built form rhythm through harmonious setbacks spacing;
- Proposal incorporates a high standard of architectural merit and design (refer to SEPP 65 assessment);
- Appropriate landscaping is proposed to the rear setback area to soften the appearance of the development to Cross Lane;
- Proposed building footprint is generally fit within the side, and rear setbacks, responds well to privacy, solar access and use of communal and private open space areas and occupies less than 35% of the site area.

In this regard, the variation to the rear setback or boundary lane setback is supported in this instance.

## 5.2 RFB – Balcony Balustrade

Part 5.2 of the RDCP 2011 outlines that solid balustrading should be included in the façade design to provide screening of clothes line and other paraphernalia. In accordance with the submitted Elevation diagrams, the proposal will include clear balcony balustrades to the majority of the units.

In this regard, the draft Notice of Determination is recommended to include a condition of consent requiring part of the clear aspect of the balustrade be opaque through such means as frosting or made solid to provide for screening of any clothes lines.

### **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**

#### Safety & Security

The proposed development is considered to result in improved passive surveillance over Princess Highway and Cross Lane with additional opportunities for overlooking onto the street being provided by the development. Opportunities for concealment have further been minimised within the development, with a direct pedestrian access being provided from the road.

The development is considered to satisfactorily minimise unusable and dead-spaces, and provide a well-defined delineation between the public and private domain.

In this regard, it is considered that the development has incorporated the principles of Crime Prevention Through Environmental Design and will provide future residents with an appropriate level of safety and security.

#### Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

### **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 proposal was notified to adjoining owners for a period of three (3) weeks on 16 June 2016, and again after design changes on 10 November 2016. No submissions were received in response to either notification.

## **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.

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

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Our Ref: DA-2016/402  
Contact: Marta M Gonzalez-Valdes 9562 1666

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Tonuja Constructions Pty Ltd  
C/- Ideas Architects  
17 Warragamba Crs  
LEUMEAH NSW 2560

## NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

**Application Number:** DA-2016/402  
**Property:** 688 Princes Highway, KOGARAH NSW 2217  
PT 2 DP 1188540  
PT 2 DP 1188540  
**Proposal:** 686 & 688 Princes Highway, KOGARAH NSW 2217 -  
Construction of a four (4) storey residential flat building  
comprising sixteen (16) residential units, rooftop  
terrace, basement parking and demolition of existing  
structures

**Authority:**

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**Determination:**

**Date of determination:**

**Date consent commences:**

**Date consent lapses:**

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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.

Title	Prepared by	Drawing Number/ Reference/ Pages	Issue/ Revision	Date
Basement Plan	Ideas-design	A-03	B	26 April 2017
Ground Floor Plan with Site & Design Calculation	Ideas-design	A-02	B	26 April 2017
Ground Floor Plan	Ideas-design	A-04	B	26 April 2017
First Floor Plan	Ideas-design	A-05	B	26 April 2017
First Floor Plan (close-up)	Ideas-design	A-05A	B	26 April 2017
Second Floor Plan	Ideas-design	A-06	B	26 April 2017
2nd Floor Plan (close-up)	Ideas-design	A-06A	B	26 April 2017
3rd Floor Plan	Ideas-design	A-07	B	26 April 2017
3rd Floor Plan	Ideas-design	A-07A	B	26 April 2017
Roof Plan	Ideas-design	A-08A	B	26 April 2017
Roof Garden Plan	Ideas-design	A-08	B	26 April 2017
North & South Elevations	Ideas-design	A-09	B	26 April 2017
East & West Elevations	Ideas-design	A-10	B	26 April 2017
Sections& Elevations	Ideas-design	A-10a	C	26 April 2017
Landscape Plan	Ray Fuggle	L-01	B	29 April 2016
Finishes Schedule	Ideas-design			December 2015

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 719578M\_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. The balconies incorporated into the development and the communal area at the rear

shall not be enclosed at any future time, without consent from Council.

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. 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.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
10. Parking spaces shall be allocated to residential apartments in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

#### **Allocated Spaces**

Studio apartments/1 bedroom apartments	1 space per apartment
and 2 bedroom apartments	
3 bedroom apartments and 3+ bedroom apartments	2 spaces per apartment

#### **Non-Allocated Spaces**

Residential Visitor Spaces	1 space per 5 apartments
Car wash bays	1 car wash bay with 5 dwellings or more.

One Loading bay for a SRV space

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

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

**Note:** This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 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*.

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

11. The approved Landscape Plan prepared by Ray Fuggle + Associates, Drawing No: L-01, and dated 29 April 2016, including the roof terrace plan and roof plan shall be updated and submitted to Bayside Council for approval prior to issue of the Construction Certificate, addressing the following:
  - Consistency with the building footprint and design provided within the approved architectural plans prepared by ideas-design listed in condition 2.
  - The third floor rooftop terrace shall include a non-trafficable area of 1.5 metres in width measured from the building edge surrounding the terrace.
  - The non-trafficable area shall include landscape planter beds with plantings,

as illustrated within the outdated Landscaped Plan prepared by Ray Fuggle + Associates, Drawing No: L-01, and dated 29 April 2016.

- The front setback area shall incorporate tree planting which does not conflict with the on site detention system.
- Screening species shall be included into the side setbacks to improve privacy between adjacent dwellings.
- 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.
- The landscape treatment of the communal undercroft area to the rear of the building so as to activate the space, and include such embellishments as :
  - a)additional podium planters and softscape features;
  - b)ground surface treatments to provide visual interest (paving patterns, sizes, textures etc.);
  - c)ceiling treatments (eg. timber panneling and lightning);
  - d)landscape & wayfinding light fixtures;
  - e)concealment of services;
  - f)interface with the property boundary at the rear.

The above shall include detailed sections at scale 1:50.

- Fencing details.

12. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.

13. 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.

14. 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.

15. 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.

16. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.

17. Noise Impacts

- The proposal shall be designed and constructed in accordance with the report by Koikas Acoustics Pty Ltd dated 6 April 2016 and received by Council on 7 July 2016.
- 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.

- Residential air conditioners must be designed so as not to operate:

- (1) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
- (2) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.

Note - peak time means:

- the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
- the time between 7:00 am and 10:00 pm on any other day.

- Noise Impacts between units:

(i) An acoustic report shall be prepared by a suitably qualified Acoustic Consultant prior to issue of the relevant Construction Certificate. The report must demonstrate that the plans submitted with the Construction Certificate will ensure compliance with the inter-tenancy flooring & wall construction requirements contained in RDCP 2011 which are as follows:

(A) 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:

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

(B) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

(ii) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the report required by (c) above satisfies 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.

18. 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.
19. Dewatering Not Approved  
This consent does not grant approval for any dewatering of the site on a temporary, permanent or semi-permanent basis. If groundwater is encountered, the works must cease until a permit has been issued by the Department of Primary Industries (NSW Office of Water) pursuant to the Water Management Act 2000, and, in the case where water is to be pumped into the public road, a permit has been issued pursuant to the Roads Act 1993.
20. 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.
21. The design and construction of the offstreet parking facilities shall comply with Australian Standards, as follows:
  - AS/NZS 2890.1:2004
  - AS2890.2:2002
  - AS2890.3:1993
  - AS/NZS2890.6:2009
  - The Loading Bay facilities are to be designed to accommodate a SRV for furniture delivery / removal. The details should be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2. (Minimum dimension 3.5m X 7.0m)
  - Comply with Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.
  - 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.
  - Headroom clearance under planter boxes or deep soil areas and roller shutter areas shall be minimum of 2.3m
  - The twoway ramp width shall be of minimum 6.1m clear,

22. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
23. Hot and cold water hose cocks shall be installed to the garbage room.
24. Materials and finishes

The following shall be submitted to Bayside Council for approval prior to the issue of the Construction certificate:

- (i) A samples' board showing finishes of walls, roof, balustrades (including any required balustrade around the communal and children's play area at the rear), window/door frames, louvres and roof pergola.
  - (ii) Details of glass canopy at the entrance and mail boxes.
25. a) In order to ensure the design quality / excellence of the development is retained:
    - i. A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
    - ii. 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;
    - iii. Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
  26. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
  27. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
  28. The approved completed landscape works shall be maintained for a period not less than 12 months.

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.

29. All carwash, engine degreasing and steam cleaning shall be conducted in a washbay which is graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
30. All condensation from the air conditioning unit shall be discharged into the sewerage system.
31. The location of the fire booster is not approved. Prior to issue of the Construction certificate, the applicant shall contact the fire brigade to ascertain whether the fire boosters located in proximity to the site's boundary at 690 Princes Highway Kogarah are suitable for the proposed development. If this option is not approved by the Fire Brigade, different options for the location of the fire boosters so they do not constitute a focal point in the streetscape shall be investigated. Details of the structure and location shall be submitted to Council for approval prior to issue of the Construction Certificate.

32. To ensure passive surveillance of Cross Lane, no high solid walls shall be constructed around the communal and children's play area at the rear. If an additional barrier is required to achieve compliance with the BCA, a balustrade to match the balconies' balustrade shall be installed. Details shall be submitted to the PCA prior to the issue of the Construction Certificate.

33. Strata By-Laws

(a) By-laws shall be registered prior to registration of any Strata Plan and maintained for the life of the development, which requires that :

(i) 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;

(ii) 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;

(iii) 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.

(b) Proof of registration of the By Law shall be submitted to Council prior to the registration of any Strata Plan.

34. 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.

35. Amended / Additional Plans and/or Information

The plans submitted with the Construction Certificate shall include and/or be amended to address the following matters:

- (a) Additional columns other than the ones shown in the approved plans within the communal undercroft area are not permitted. If additional columns are proposed a S96 application must be submitted to Council.
- (b) No structure is permitted in the 900mm right of way along Cross Lane.
- (c) 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.
- (d) 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.
  - (iii) The ceiling height of the undercroft area at the rear shall be a minimum height of 2.7 metres. Pipes and services shall be screened by a false ceiling.
- (e) Lift Size – All 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.
- (f) 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 must be appropriately designed and screened by landscape planting.
- (g) Any air-conditioning units shall not be fixed to the external walls of the balcony or building and must be located in a position that is not visible from the public domain.
- (h) All plumbing, including down pipes shall be concealed within the brickwork / facade of the building.
- (i) Accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):
- 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>
  - A minimum 50% of the storage space required by (b) above shall be provided in each apartment.
  - 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.

(j) Balustrades shall be constructed from a solid/opaque material to a minimum height of 1000mm. The top of the balustrade shall be a minimum height of 1200mm.

(k) The POS of Unit 3 shall not extend beyond that hatch area shown on the approved plans. A fence is to be installed to delineate the private and communal open space areas.

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

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

36. 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 21,465. 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 \$17.50.
37. 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.
38. An application for Boundary levels 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 boundary levels. 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.

39. A Section 94 contribution of \$138,833.52 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$113,931.68	
Community Services & Facilities		\$8,196.95

Town Centre & Streetscape Improvements	\$3,740.98
Pollution Control	\$12,155.80
Plan Administration & Management	\$808.11

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

40. 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.
41. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
42. The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.

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

43. The applicant shall confer with Energy Australia to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Energy Australia to determine Energy Australia requirements. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole in the road reserve at (specify location if required) to (specify location if required), is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Energy Australia. The applicant shall enter into a contract with Energy Australia for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

44. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further

requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.

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

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

46. 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.

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

47. 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.

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

48. All recommendations contained in the report prepared by Caldwell & Kent Consulting, Ref: CKC CV688PHV01, Dated 29 April 2016 shall be implemented.

49. As the basement floor is 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 the recommendations contained in the Geotechnical and Acid Sulfate Soil assessments report prepared by STS GeoEnvironmental Pty Ltd, Report No. 15/2936A, dated May 2016;

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

geotechnical perspective and

(c) Confirm the proposed construction methodology.

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

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

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.

50. 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.*

51. Prior to issue of Construction Certificate, swept path analysis shall be submitted to Certifying Authority for assessment and approval.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and a 'SRV' sized vehicle entering/exiting of the driveway / loading bay within the basement in accordance with section 7.2 of Councils Technical Specification – Traffic, Parking and Access.

Where a Private Certifier issues a Construction Certificate, the plans mentioned in the above paragraph must be provided to Council.

52. All recommendations contained in the Preliminary Site Investigation report prepared by Martens Consulting, Ref: P1605467JR01V02 , dated 13 September 2016 shall be implemented. These recommendations include the following:

(1) The property is to undergo a hazardous materials assessment by appropriately qualified contractor pre-demolition to determine if asbestos or other hazardous material is present. Where hazardous materials are identified, the material is to be removed and disposed of by an appropriately qualified contractor under current controls

(2) A walkover inspection following demolition is required to determine any residual impacts or unexpected finds from previous use.

(3) All fill material is to be removed from site as a part of the site excavation works. Prior to any fill or soil being removed from site, a formal waste classification assessment in accordance with NSW EPA Waste Classification Guidelines (2014) is required.

53. A Waste Management Plan shall be prepared and implemented in accordance with Rockdale Technical Specification Waste Minimisation and Management.

54. The low level driveway must be designed to prevent inflow of water from the road reserve. A gutter flow analysis, in accordance with Council's Technical Specification – Stormwater Management, is required to be submitted to the Certifying Authority. The analysis is required to:
- Estimate the flow of water in the street kerb and gutter; and
  - Recommend the required crest level in the driveway to protect the low level driveway from flooding.

Where a crest is required, a longitudinal surface profile must be also be submitted for assessment. Details shall be included in the documentation presented with the Construction Certificate application.

55. 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.
56. A visitor car space shall also operate as a car wash bay. 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.
57. 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.

Note: The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater run-off in accordance with the Rockdale Technical Specification Stormwater Management, Section 7.5.4.

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.

## **Prior to commencement of works**

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

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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.

- 65. 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.
- 66. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.

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

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

- 67. 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.
- 68. 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.
- 69. 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.

70. 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.

71. 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.
72. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
73. 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:
- After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - 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.
  - 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.
  - 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.
  - 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.
74. 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:

- preserve and protect the building from damage and
- underpin and support the building in an approved manner, if necessary and
- 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.

75. 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.
76. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
77. 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.
78. 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.

79. 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.

80. All existing trees located within the site may be removed.

### **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.

81. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
82. 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.
83. 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.
84. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
85. 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.
86. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
87. 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.
88. 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".
89. 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.
90. A convex mirror is to be installed at a suitable location to provide increased sight distance for vehicles.
91. The dedication to Council of a 900mm width footway easement along the Cross Lane frontage for footway widening purposes. The area shall be kept clear of any structures.
92. Bollard/s shall be installed by the Developer on adaptable shared spaces.

93. Off-street car spaces and the loading bay 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.
94. 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.

95. 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.
96. 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:
    - (i) The acoustic treatments and measures specified in the approved Acoustic report prepared by Koikas Acoustics Pty Ltd (Report No. 2950R20160316jt688PrincesHwyKogarah.docx) dated 6 April 2016
    - (iii) The internal noise environment within all units complies with all relevant legislation and all other requirements contained in Conditions 17 and 18.
  - (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.
97. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
98. 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.
99. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
100. 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.

101. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability gutter flow. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
102. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
103. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
104. 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.

105. The outside finished ground level shall be constructed a minimum of 200mm below the habitable floor level for the whole building perimeter.
106. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
107. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
108. The development is required to provide for a master TV or satellite antenna.

**Note:** Should the proposed master TV or satellite antenna not be permitted as exempt development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, then separate approval must be obtained from Council prior to installation.

**Note:** Should the erection of the master TV or satellite antenna exceed a height of

30.3 metres AHD, then separate approval pursuant to s.183 Airports Act - Notification of decision under Reg 15A(2) of the Airports (Protection of Airspace) Reg's 1996 must be obtained from the Sydney Airport Corporation Limited (SACL)

## **Integrated development/external authorities**

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

### **109. Sydney Airport**

Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 30.3 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 is to exceed this height without further approval from Sydney Airport Corporation Limited.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development 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.

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

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

### **110. Roads & Maritime Service**

1. Any redundant driveways on Princes Highway shall be removed and replaced with kerb and gutter to match the existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with Roads and Maritime's requirements. Details of these requirements should be obtained from Roads and Maritime's Statewide Delivery Section (9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the commencement of any road works.

A plan checking fee 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.

2. Roads and Maritime has previously vested a strip of land as road along Princes Highway frontage of the subject property as shown by grey colour on the attached Aerial - "X".

All buildings and structures, together with any improvements integral to the



future use of the site, are to be wholly within the freehold property (unlimited in height or depth) along the Princes Highway boundary.

The subject property is within a broad area under investigation for the proposed M5 WestConnex project. For information on the WestConnex project, please call 1300 660 248, email [info@westconnex.com.au](mailto:info@westconnex.com.au) or visit the project website [www.westconnex.com.au](http://www.westconnex.com.au).

The subject property is also within a broad area currently under investigation in relation to the proposed F6 project. Further information can be obtained by visiting website [www.rms.nsw.gov.au/projects/motorwaydevelopment](http://www.rms.nsw.gov.au/projects/motorwaydevelopment) or by contacting the F6 Corridor Study Team - Email: [motorwaydevelopment@rms.nsw.gov.au](mailto:motorwaydevelopment@rms.nsw.gov.au). Phone: 1800 789 297.

3. 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  
P O Box 973 Parramatta CBD 2124

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.

4. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system 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  
P O Box 973 Parramatta CBD 2124

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.

5. 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.

6. A construction zone will not be permitted on Princes Highway.

## **Roads Act**

111. 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.

112. 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.

113. 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.

114. 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.

115. 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.

116. 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).

## **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. In order for the final Subdivision/Strata 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 2 lots;
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized 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.
- c. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- d. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- e. If the development is not subject to BASIX, a mandatory rainwater tank may be required. Rainwater tank requirements for development not subject to BASIX are specified in Council's DCP 78.

## **Additional Information**

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
  - To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
  - Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
  - Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
-

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

PRINCES HIGHWAY

LANE

BAXTER LANE

CROSS LANE

**SITE PLAN**  
scale 1 : 200 @ A3

**PROJECT:**  
PROPOSED RESIDENTIAL APARTMENT  
AT 688 PRINCES HIGHWAY KOGARAH, NSW

**CLIENT:**  
TONUJA CONSTRUCTIONS PTY.LTD

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DRAWING TO BE READ IN CONJUNCTION WITH SPECIFICATION, ENGINEERING DESIGN AND RELEVANT CONSULTANTS DRAWINGS.  
FIGURED DIMENSIONS TO TAKE PREFERENCE OVER SCALED DIMENSIONS

**DRAWING TITLE:**  
SITE PLAN

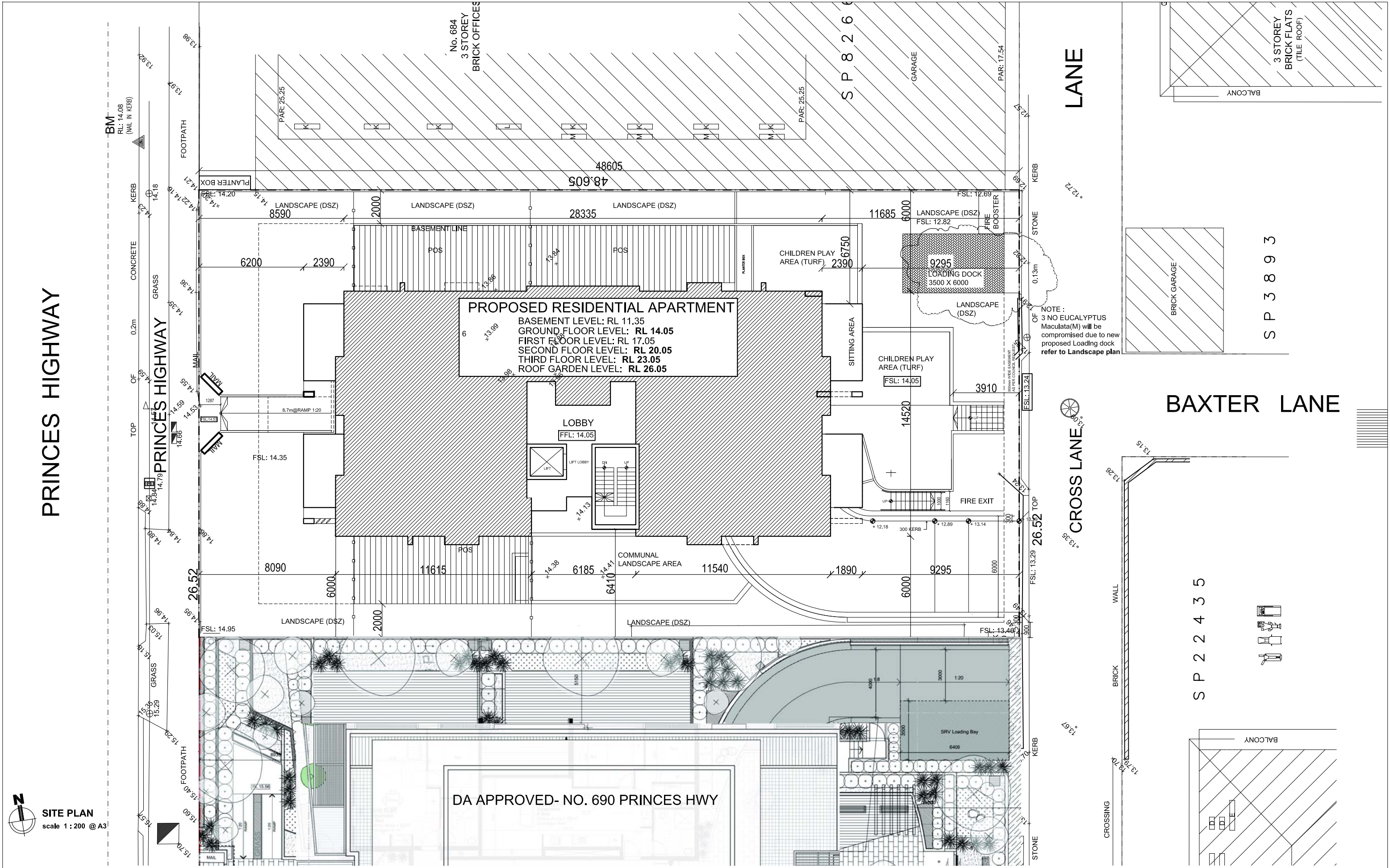
**DESIGNED:**  
IFTEKHAR ABDULLAH  
B. Arch., M. Urb. Des. (Sydney Uni.)  
Architect (Reg.8626 NSW, 2410 ACT)

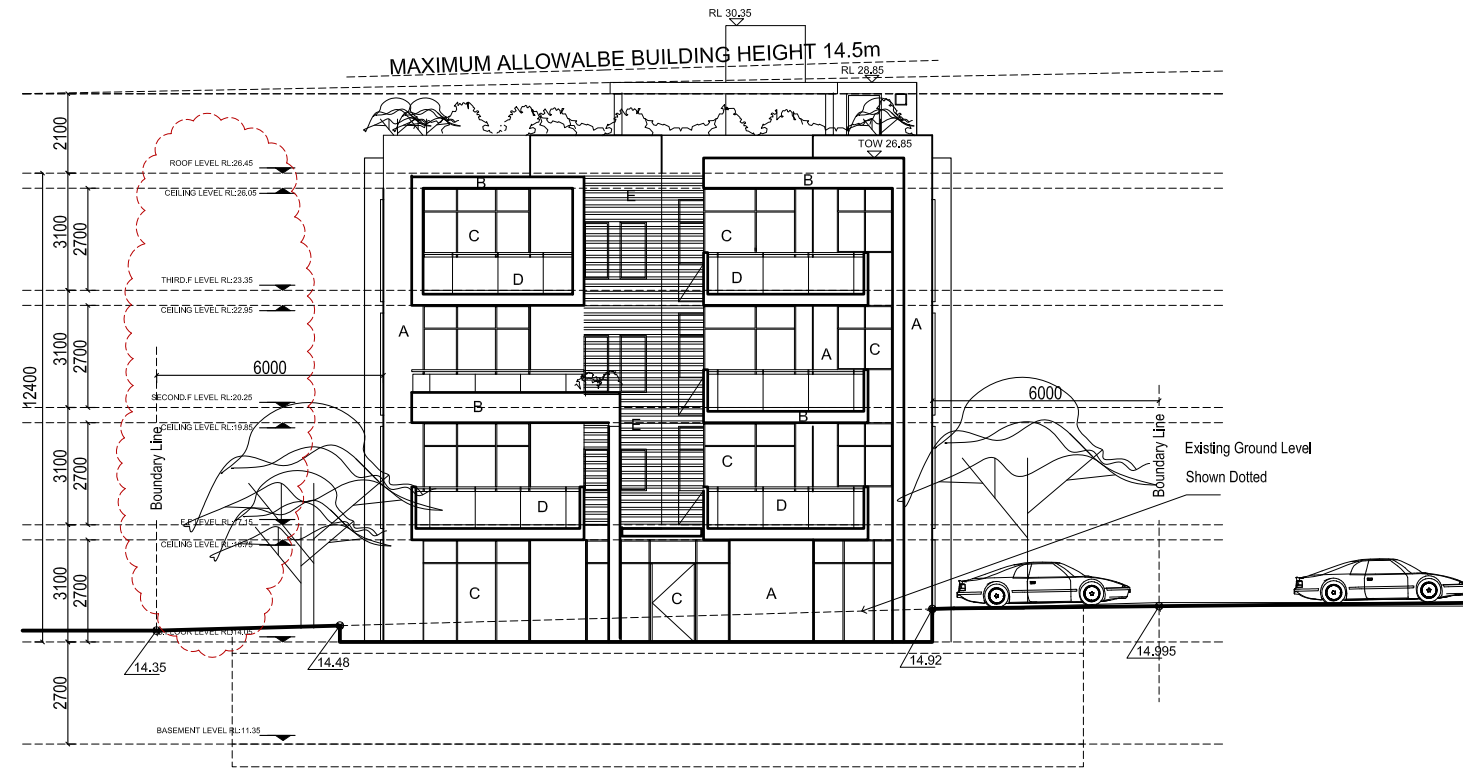
**DESIGN DEV & DRAWN:**  
PALLAB CHAKRABARTY  
(B.ARCH)

**ideas** •Architects •Urban Designers  
**iftekhAR+design as associates**  
17 Warragamba Cr. Leumeah, NSW - 2560  
Ph: 02 46257733, Mobile: 0404 891 326  
e-mail: info@ideas-design.com.au  
www.ideas-design.com.au

**AMENDMENTS:**  
REV-A (18.10.16)  
revised DA as per council RFI (28.09.16)

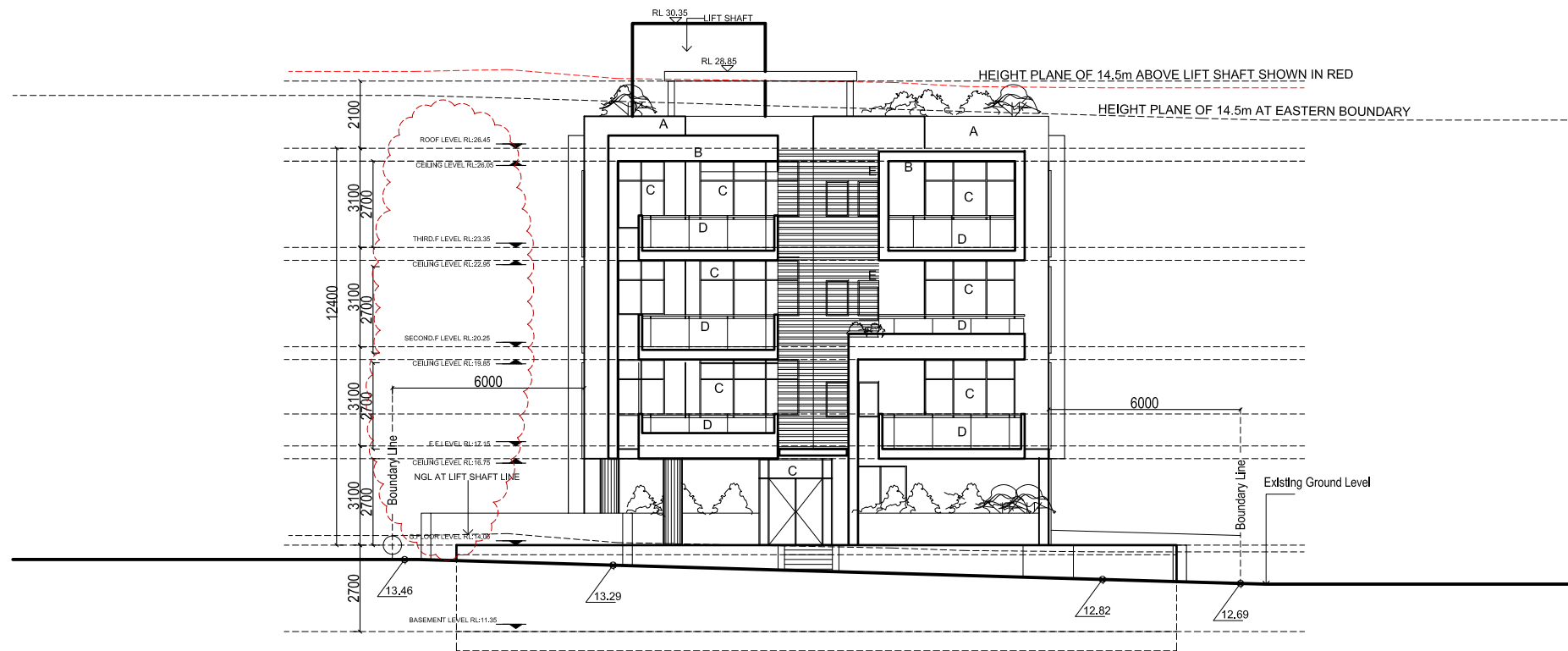
**SCALE:** As Shown  
**DATE:** OCT, 2016  
**DWG. NO.:** A-01  
**revision:** A B C D E F





**WEST ELEVATION (PRINCES HIGHWAY)**

scale 1 : 200 @ A3



**EAST ELEVATION (CROSS LANE)**

scale 1 : 200 @ A3

Walls A	Double Brick External Wall Rendered White (Dry)	
Walls B	Double Brick External Wall Rendered White (Wet)	
Windows Doors C	Aluminum Frame with glass in SASH & SCA Colour: Dark Grey Drain or Ventage windows or other	
Balcony Balustrades D	Stainless Steel Toughest glass in SCA Stainless Steel	
Privacy Screen E	Aluminum Timber slat Frame Timber Colour	
Pathway F	Slip resistant Tiles Grey	
Driveway G	Smooth Finish & Colour: Concrete Channel	

NOTE : Revision B shown in CLOUD AREA

**PROJECT:**  
PROPOSED RESIDENTIAL APARTMENT  
AT 688 PRINCES HIGHWAY KOGARAH, NSW

**CLIENT:**  
TONUJA CONSTRUCTIONS PTY.LTD

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DRAWING TO BE READ IN CONJUNCTION WITH SPECIFICATION, ENGINEERING DESIGN AND RELAVENT CONSULTANTS DRAWINGS.  
FIGURED DIMENSIONS TO TAKE PREFERENCE OVER SCALED DIMENSIONS

**DRAWING TITLE:**  
EAST & WEST ELEVATIONS

**DESIGNED:**  
IFTEKHAR ABDULLAH  
B. Arch., M. Urb. Des. (Sydney Uni.)  
Architect (Reg.8626 NSW, 2410 ACT)

**DESIGN DEV & DRAWN:**  
PALLAB CHAKRABARTY  
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P CHAKMA  
(B.ARCH)

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e-mail: info@ideas-design.com.au  
www.ideas-design.com.au

**AMENDMENTS:**  
REV-B (24.04.17)  
RL Corrected, floor to floor height increased to 3.1 m  
REV-A (18.10.16)  
revised da as per council RFI (28.09.16)

**SCALE:** As Shown  
**DATE:** OCT, 2016  
**DWG. NO:** A-10  
  
**revision:** A B C D E F