
Bayside Planning Panel

14/12/2017

Item No	6.6
Application Type	Development Application
Application Number	DA-2017/105
Lodgement Date	28 September 2016
Property	109-110 The Grand Parade, Brighton Le Sands
Owner	The Prop of Strata Plan 1727
Applicant	Mr C Hafouri
Proposal	Construction of a four (4) storey residential flat building containing 11 apartments, basement level parking, private and communal roof top terrace areas and demolition of existing structures
No. of Submissions	41 (A total of ten (10) submissions were received during the last notification period)
Cost of Development	\$5,302,943.00
Report by	Alexandra Hafner – Senior Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel support the variation to Clause 4.3 – Height of Building as contained within the Rockdale Local Environmental Plan, 2011, in accordance with the request under Clause 4.6 of the Rockdale Local Environmental Plan, 2011, submitted by the Applicant.
 - 2 That Development Application DA-2017/105 for the demolition of existing structures and construction of a four (4) storey residential flat building containing 11 apartments, basement level parking, private and communal roof top terrace areas 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; and
 - 3 That objectors are advised of the Bayside Planning Panel's decision.
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Background

DA-2017/105 was reported to the Bayside Planning Panel (The Panel) on 12 September 2017 and recommended for refusal for the following reasons:

- Failure to satisfy the principles of SEPP 65 relating to:
 - a) Principle 1 – Context and Neighbourhood Character
 - b) Principle 2 – Built Form and Scale
 - c) Principle 3 – Density
 - d) Principle 6 – Amenity
 - e) Principle 9 – Aesthetics
- Failure to satisfy the requirements of the ADG relating to 3D – Communal Open Space; 3F – Visual Privacy; and 4E – Private open space and balconies.

- Failure to satisfy the numerical standards or objectives of the RLEP 2011 relating to:
 - a) Clause 4.3 – Height of Buildings;
 - b) Clause 4.4 – Floor Space Ratio;
 - c) Clause 4.6 – Exceptions to Development Standards; and
 - d) Clause 5.6 – Architectural Roof Features.

- Failure to satisfy the provisions and objectives of the RDCP 2011 relating to:
 - a) 4.1.9 – Lot Size and Site Consolidation;
 - b) 4.4.2 – Solar Access – Residential Flat Buildings;
 - c) 4.4.5 – Acoustic Privacy;
 - d) 4.6 – Car Parking;
 - e) 4.7 – Site Facilities.

- Having regard to the above, the site was demonstrated to not be suitable for the above reasons and not in the public interest.

The Panel deferred resolution to enable the applicant to revise the DA package for consideration with revised plans to be re-notified in accordance with the Regulations and RDCP 2011.

Revised architectural plans (Issue No. 6 and dated 9 October 2017) were submitted to Council and re-notified for a period of 14 days. The revised architectural package form the basis of this Report.

Attachments

- 1 Planning Assessment Report
 - 2 Revised Clause 4.6 Submission
 - 3 Revised Elevational Plans
 - 4 Revised Site/Roof Plan
 - 5 Revised Driveway/Swept Path
 - 6 Revised Streetscape and Elevations
 - 7 Revised Shadow Diagrams
 - 8 Revised External Finishes Schedule
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Location Plan



Figure 1: Site Location
(Source: SIX Maps)

Fig 1 – Location Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/105
Date of Receipt:	28 September 2016
Property:	109 - 110 The Grand Parade, BRIGHTON LE SANDS (SP 1727)
Owner:	The Prop Of Strata Plan 1727
Applicant:	Mr Carlos Hafouri
Proposal:	Construction of a four (4) storey residential flat building containing 11 apartments, basement car parking, private and communal roof top terrace areas and demolition of existing structures
Recommendation:	Approved
No. of submissions:	41 letters (A total of ten (10) submissions were received during the last notification period)
Author:	Alexandra Hafner
Date of Report:	28 July 2017

Key Issues

The subject site is located on The Grand Parade, which is a classified road and is zoned R4 High Density Residential under Rockdale Local Environmental Plan 2011 (RLEP 2011). The site currently comprises a two storey residential flat building comprising 4 units with associated garaging within the rear of the site.

The proposal seeks to demolish existing structures on site and construct a four (4) storey residential flat building comprising 11 units, basement level car parking and associated communal and private rooftop terrace areas.

In December 2015, the NSW Government passed the Strata Schemes Development Act 2015 (NSW). The Act permits the owners of lots within a free hold strata scheme to redevelop their site whereby 75% of lot owners agree. The subject property comprises 4 lot owners, whom all agree to redevelop the subject site.

Revised Architectural Plans, Issue No. 6 and dated 9 October 2017, demonstrate the proposal now complies with the requirements of the Apartment Design Guide (ADG) with respect to communal open space and minimum balcony dimensions. It is noted however the site is constrained and unable to achieve numerical compliance with building separation provisions of the ADG and this is suitably justified within the body of this Report. Revisions have resolved matters relating to visual privacy and acoustic impacts to neighbouring properties, in particular to existing residential units to the south within 112 The Grand Parade. An assessment of the revised architectural detail and supporting documentation under State Environmental Planning Policy 65 identifies that the proposal therefore

satisfies principles in relation to context and neighbourhood character, bulk and scale, density, amenity and aesthetics.

Revised architectural plans demonstrate the proposal seeks to vary the maximum height limit by 0.300m. A revised Clause 4.6 - Exceptions to Development Standards has been submitted by the applicant and is supported for the reasons discussed within this report.

The proposal also indicates a non compliance to the requirements of DCP 2011 with respect to minimum allotment width. This matter is discussed further and supported within the planning report.

The proposal was publicly notified on three occasions, with originally submitted plans notified from 8 October - 14 November 2016; revised plans notified from 3 - 21 April 2017. Revised plans submitted to Council in June 2017 were not publicly re-notified, given the minor extent of changes and the provisions of DCP 2011. Notwithstanding, revised plans were made publicly available upon Council's website. A total of 26 individual letters of objection were received following the aforementioned notification periods. Multiple submissions i.e. 2 - 5 letters were received from 8 of the 10 objectors, whom wrote to Council.

Final revised plans, Issue No. 6 and dated 9 October 2017, were notified from 13 October - 30 October 2017 with a total of 10 individual letters of objection. The issues raised by objectors were considered as part of the assessment of this application and are detailed within the planning report.

For the reasons contained within the below, it is considered the proposal satisfactory with respect to the relevant EPI's; DCP; Technical Specifications and Policies and recommended for approval.

Recommendation

1. That Development Application DA-2017/105 for the demolition of existing structures and construction of a four (4) storey residential flat building containing 11 apartments, basement level parking, private and communal roof top terrace areas 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; and
2. That the objectors are advised of the Bayside Planning Panel's decision.

Background

History

28 September 2016

DA submitted to Council

8 October - 14 November 2016

Public notification of original plans. On 19 October the original proposal was reviewed by the Design Review Panel, following of which the applicant amended their plans and re submitted the revised scheme to Council on 9 December 2016.

2 March 2017

Written correspondence to applicant identifying issues of concern, including but not limited to height, FSR, overshadowing, view loss, narrow side setbacks, accessibility, excessive screening to bedrooms, extent of roof top structures, lack of loading / unloading bay, deficiency in communal and private open spaces, insufficient information and the like.

3 - 21 April 2017

Public notification of amended plans submitted to Council 9 December 2016.

Following the second notification period, a meeting was held with the applicant to discuss outstanding concerns which had previously been identified in Councils correspondence issued on 2 March and in order to seek to find means to resolve these issues. Final amended plans were submitted to Council for assessment on 14 June 2016.

12 September 2017

DA-2017/105 was reported to the Bayside Planning Panel (The Panel). The Panel deferred resolution to enable the applicant to revise the DA package for consideration with revised plans to be re-notified in accordance with the Regulations and RDCP 2011.

13 October to 30 October 2017

Revised architectural plans (Issue No. 6 and dated 9 October 2017) were received by Council and re-notified for a period of 14 days with ten (10) submissions were received during this period. A summary of revisions are as follows:

- A 800mm reduction in the overall building height by lowering the proposed ground floor closer to NGL, in addition to using PT slabs to lower the FFL's;
- The overall height breach is now limited to a point encroachment accommodating the lift overrun and staircase of 300mm (<2% of the maximum building height);
- Amendments and reductions in the overall building height have resulted in compliant solar access provisions to southern adjoining dwellings and the proposed basement levels being wholly contained below NGL;
- A reduction in FSR through a redesign of the lobby areas and floor plans to ensure compliance with the maximum 1:1 permitted in accordance with Clause 4.3 of the RLEP 2011;
- A minor redesign of the basement levels to accommodate the loading/unloading of vans without compromising the traffic efficiency of The Grand Parade;
- An increase of the ground floor communal open space area and inclusion of rooftop terrace with increased dimensions to permit a variety of external uses;
- An inclusion of the adjoining RL's of No. 112 The Grand Parade demonstrating a reduction of the FFL of the ground floor rear units approximately 450mm lower than the neighbouring driveway;
- Increases in northern and southern allotment boundary setbacks to Unit 10 setbacks and POS;
- An inclusion of privacy screening and glazing or obscured glass to the northern and southern elevation window. Where windows are not obscure, a minimum sill height of 1600mm has been included. 1500mm wide planters are incorporated into the roof top terrace areas for additional privacy measures and to reduce the opportunity for overlooking; and
- A reduction in balcony depths by 1m + as per The Panel's recommendations with a redesign to ensure no less than 8sqm of usable POS is achieved for each dwelling.

Proposal

Revised Architectural Plans, Issue 6 and dated 9 October 2017, show the proposal seeks to demolish the existing two storey residential flat building and associated structures on site and erect a 4 storey residential flat building comprising 11 dwellings (3 x 1 bed / 3 x 2 bed / 5 x 3 bed), two levels of

basement car parking and private / communal roof top terrace areas. The proposal comprises as follows:

Basement 2

8 car spaces, vehicular/pedestrian circulation, residential storage areas, fire stairs, lift core and adjoining residential lobby.

Basement 1

12 car spaces including 3 accessible (3 visitor / 9 resident) fire stairs, lift core and adjoining residential lobby, bin storage area, motorbike space, carwash bay.

Ground Floor

Vehicular access adjoining northern side boundary with associated passing bay within the front setback of the site. 1m high fire hydrant/booster structure adjoining the passing bay. Turfed area within the front setback of the site and main pedestrian entry adjoining southern side boundary with associated letter boxes. Three units are proposed at ground level being 1 x 3 bed unit fronting The Grand Parade with associated terrace and bbq area, 1 x 1 bedroom and 1 x 2 bedroom unit with associated raised courtyard spaces. Adjoining the rear boundary of the site is a proposed communal area located at existing ground level. Periphery planting is proposed along portions of the northern and southern side boundaries above the basement level along with a fire stair proposed to be positioned along the southern side boundary midway into the site.

Level 1 - 2 (3 units per floor)

1 x 3 bed / 1 x 1 bed / 1 x 2 bed units with associated balcony spaces.

Level 3

2 x 3 bedroom units with associated balcony spaces.

Rooftop

109sqm communal open space area to the rear portion of the building and Unit 10 provided with Master Bed; WIR and ensuite with private open space area overlooking The Grand Parade. Revised architectural plans show the balcony for the Master Bed setback by 1500mm from the building edge with the Master Bed setback 4.5m from the northern and southern allotment boundaries.

The proposed development incorporates a range of colours, finishes and materials, including but not limited to render, face brick cladding, glazed balustrades, gold alucobond features, aluminium blades etc.

The proposal incorporates a central residential lobby which is open to the southern side with a planter at balustrade height at each level. The lobby at the top level of the development is open to the northern and southern sides. A central single lift core and associated stairwell service the proposed development. Associated stormwater and landscaping works are proposed on site with a revised photomontage of the proposed and adjoining developments provided for the benefit of the reader below.



Site location and context

The subject site is a rectangular shaped allotment with a frontage of 15.355m and overall site area of 847.4m². The site is approximately up to 0.7m higher at the front than the rear. The property is currently occupied by a two storey residential flat building comprising a total of 4 units, with detached garaging and outbuilding within the rear of the site. The existing block of flats is strata subdivided. The rear third of the site is traversed diagonally by a Sydney Water sewer and there is no significant vegetation on the subject site.



Figure 2 - Aerial Context



Figure 3 - View of site and neighbouring buildings from The Grand Parade

To the north lies 106 the grand parade, comprising a two storey residential flat building with detached garaging within the rear of the property. Adjacent to the northern adjoining neighbour is a pedestrian walkway linking the Grand Parade to Hercules Road. This area comprises a footpath and associated turf, trees and shrubs. Further to the north are a range of residential flat buildings ranging in height from 2 - 4 storeys in height.

To the south lies 112 The Grand Parade a four storey residential flat building. Further to the south are residential flat buildings ranging in height from 2 - 4 storeys, with a 7 storey flat building at 122-123 The Grand Parade and a two storey function centre / restaurant at 128/128A The Grand Parade. To the east lies The Grand Parade, with the Botany Bay foreshore directly opposite the subject site.



Figure 4 - Opposite the site

To the rear of the site is 30 Hercules Road a two storey residential flat building, to the north west is a four storey RFB at 28 Hercules Road and to the south west at 32 Hercules Road is another 2 storey residential flat building.



Figure 5 - Hercules Road properties to the rear of the site

The site and immediately surrounding area is zoned R4 High density residential. The subject site is affected by the following:

- Frontage to a State Road
- 15.24m Building Height Civil Aviation Regulations / OLS

- Class 4 ASS
- In vicinity of a heritage item, LEP 2011 (Cook Park - Botany Bay Foreshore)

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.91A - Development that is Integrated Development

The proposal includes excavation works for two (2) levels of basement car parking that will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 23 November 2016. The proposal is satisfactory in this regard.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The application is accompanied by revised BASIX Certificate No. 744994M_02 and dated Sunday 28 May 2017. The BASIX Consultant has confirmed that a further amended Certificate is not required for the revised package, Issue 6 and dated 9 October 2017. The Certificate demonstrates the proposal satisfies the relevant energy (30); water (41) and thermal comfort commitments as required by SEPP (BASIX) and therefore supported in this instance.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road i.e. The Grand Parade. In this regard, clause 101- Development with frontage to a classified road, of the SEPP must be considered. The original plans were referred to the RMS for concurrence who responded as follows:

1. The driveway is to be 5.5m wide at the crossover on The Grande Parade and for at least 6 metres from the property boundary in accordance Australian Standards. Therefore the site/ground floor plans should be amended to show the proposed driveway being at least 5.5m in width at the crossover on The Grand Parade, and for 6 metres into the site. The maximum grade for the first 6 metres from property boundary shall be 1 in 20 (5%). This will allow vehicles to enter and exit the property simultaneous. Furthermore, this will reduce impact on the traffic movements on The Grand Parade as vehicles don't have to be stationary and wait on The Grand Parade.

2. The driveway should not be used as a loading zone and should be kept clear at all times for vehicles to pass by and manoeuvre on the driveway.

As noted above, the RMS did not support the provision of the proposed dual SRV loading / unloading and passing bay within the front setback of the site. Revised architectural plans, Issue 6 and dated 9 October 2017, show this to be relocated to Basement Level 1 with the provision of two (2) spaces. The crossover has been increased to 6.1m with the area within the primary setback used as a passing bay only. Subject to conditions, the proposal considered to be satisfactory with regards to the requirements of Clause 101 of the SEPP (Infrastructure).

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

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

The proposed development is for a residential flat building and is on land adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles, that the consent authority considers 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 SEPP Infrastructure is required to be considered as part of this assessment.

The requirements of this clause for a residential use are:

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

(a) in any bedroom in the building-35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time.

The proposal was accompanied by an Acoustic Report, prepared by Acoustic Noise and Vibration Solutions Pty Ltd and dated 31 August 2016, which considered the potential impact of road noise on the proposed development. The report concluded that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Council notes a revised Acoustic Report was not required to accommodate subsequent revisions of the architectural plans due to the reduction in both FSR and numbers of dwellings. Subject to appropriate conditions, the provisions of this Clause are satisfied.

Clause 45 - Works within the vicinity of electricity infrastructure

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

Accordingly, the proposal has been sent to Ausgrid. The authority has responded during the required legislative timeframe and recommended standard conditions of consent, should the proposal have been supported, to ensure that existing electricity infrastructure is safeguarded. The application is consistent with the provisions of the SEPP in this regard.

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

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

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

The original proposal was reviewed by the Design Review Panel on 19 October 2016. The DRP raised concerns including but not limited to height, FSR, narrow setbacks, lack of deep soil, overshadowing, privacy and amenity impacts on site and to neighbouring properties and inaccuracies in submitted documentation. Subsequent revisions of the architectural plans and resultant Issue No. 6 have resolved DRP concerns through the following:

1. Height - The overall height of the building has been reduced through the lowering of the ground floor level closer to NGL as well as reducing the FFL through the use of PT slabs. The overall height breach is now limited to a point encroachment to accommodate the lift overrun and staircase access with a maximum numerical non-compliance of 300mm (<2% variation). The application is accompanied by a revised written Clause 4.6 submission seeking to vary the maximum permitted height as required by Clause 4.3 of the RLEP 2011 and is suitably justified in the body of this report below.
2. FSR - Compliance with the maximum permitted FSR of 1:1 has been achieved through a redesign of the lobbies and 'tweaking' of the proposed floor plans.
3. Narrow setbacks - Increased upper level side setbacks of 4.5 metres has been achieved which now complies with the numerical provisions of Part 5.2 of the RDGP 2011.
4. Lack of deep soil planting - The rear ground floor communal open space area has been expanded to ensure deep soil provisions have been satisfied with depths of 6.5m achieved to the rear allotment boundary.
5. Overshadowing, privacy and amenity impacts on site and to neighbouring properties - A refinement of the proposal, including increased side setbacks; a lowering of the overall building height by 800mm + and inclusion of privacy screening and glazing to northern and southern elevation windows have ensured the DRP's concerns have been resolved.

The final and revised architectural detail was not required to be re-referred to the DRP. The design quality principles have been considered in the assessment of the proposal which is deemed to be satisfactory for the reasons discussed below.

Principle 1 – Context and Neighborhood Character

The DRP noted as follows:

"The site currently has a two storey apartment building and is located in an established row of older style 2-4 storey apartments. The site is located on the Grand Parade a busy arterial road and has views to the east to Botany Bay. The site is narrow with a 15.3m frontage and adjacent apartment buildings are built close to the side boundary. The applicant presented a proposal that significantly exceeds the height and FSR controls for the site. The justification presented was that buildings located in the neighbourhood exceeded these controls and therefore established a precedent. The precedent buildings were from a different time and set of controls and the Panel does not see at this

stage justification for significant variations to Council's controls. Given the constraints of the site including the narrow frontage and an established context, the proposal appears to be a significant over development of the site."

Comment: The subject street block bound by Hercules and Teralba Roads, Kings Lane and The Grand Parade predominately comprises established older style traditional brick buildings with pitched roofing forms. Directly adjoining the site to the north, south and west are established 2-4 storey brick walk up flat buildings also with pitched roofs. Flat roof buildings are located further to the south beyond the subject street block in excess of 100m away.

Following the DRP comments above, the revised scheme evolved as follows:

- Reduction in number of storeys and overall height from 5 to 4 with retention of rooftop communal and private open space areas and rooftop pergola structure.
- Retention of 3m side setbacks to all levels with an increased upper level side setback of 4.5m in accordance with the RDCP 2011.
- FSR reduction from 1.39:1 to 1:1. This represents a reduction in surplus gross floor area from 347.6sqm to comply with the maximum permitted.
- Number of units reduced from 15 to 11 as currently proposed.
- Recessing of awning structure at rooftop 3m back from front building alignment and addition 1.5m from the roof edge.
- Retention of modern contemporary style with flat roof form.

In its final form, the proposal has achieved compliance with respect to the maximum permitted FSR with only a minor, technical non-compliance to height to accommodate a lift and stair access (0.3m or 2%). The proposal provides a modern style using contemporary building materials. Reductions in the overall building height have lowered the ground level privacy courtyard areas to approximately 200-600mm lower than No. 112 to the south and in line with the site to the north. All ground floor fencing now sits at ground level in line with those adjoining - including inter-tenancy fencing for private open space areas. The revised package also shows the proposed basement level to siting almost wholly below NGL (Indicative Section 01, Drawing No. DA301, Issue 6 and dated 9 October 2017). The revised detail is now considered to be consistent with existing properties and fencing as established.

When viewed from The Grand Parade, existing flat buildings comprise low front boundary fencing to delineate between public and private domain. The proposal does not seek to provide designated front boundary fencing however the use of landscaping and vegetation is considered to respond to and reinforce spatial characteristics, ensuring the legibility of the urban environment. The proposal in its current form, is therefore, considered to respond to and contribute positively to the established surrounding context and neighbourhood character.

Principle 2 – Built Form and Scale

The DRP noted as follows:

- *"Scale is out of context with development in the immediate neighbourhood. The form disregards the impact on adjacent neighbouring properties and its configuration is assertively horizontal to The Grand Parade and out of context"*

Comment: The overall height has been lowered, resulting in a point encroachment of 300mm to

accommodate a lift and stair access point. Increased side setbacks to Level 4 have reduced the horizontal bulk of the rooftop structure with the design modifications minimising the apparent bulk and scale of the building resulting in consistency within the established context.

- *Overshadowing impacts on adjacent buildings particularly the existing apartment building to the south. Impacts should be demonstrated (sun's eye view analysis or elevation studies) and inform a revised building strategy;*

Comment: Elevational shadow diagrams, Drawing No's. DA611 and DA612, were submitted by the applicant in order to demonstrate the resultant overshadowing impacts of the proposal in midwinter onto the six (6) units within the southern adjoining neighbouring building at 112 The Grand Parade. The matter of overshadowing has been discussed in detail within Part 4.42 of this report and deemed acceptable in this regard.

- *The over-scaled roof feature. This exacerbates the height of the building to the street and should be significantly reduced and setback to reduce its impact;*

Comment: As noted above, the final scheme illustrates that the rooftop structure has been recessed 3m from the front building alignment. Notwithstanding and as discussed above, the rooftop structure exacerbates the perception of height on the subject site, results in further unnecessary shadow impacts to the private open space and habitable windows of the southern top floor neighbour from 12pm onwards and is thus unsatisfactory.

- *The entrance portico adds additional clutter to the street is out of character and blocks views from ground level apartments."*

Comment: The entrance portico referred to above has since been deleted.

Principle 3 – Density

The DRP noted that the *'FSR of the proposed development is in excess of 1.39. The FSR is 1:1. The Panel does not see any justification for exceeding the Council's control. The lobbies do not appear to be included in the floor space calculation and would add an additional 64 sq.m to the building GFA.'*

Comment: Revised architectural plans, Issue No. 6, have reduced the overall FSR to comply with the maximum permitted at 1:1. Given the constrained nature of the site within an established context, compliance with the FSR standard is paramount and has been achieved in this instance. The proposal is therefore satisfactory with regard to this principle.

Principle 4 - Sustainability

The DRP identified that the original design *"provides no substantial tree planting proposals. This impacts on the local micro climate and requires increased energy consumption in summer time. Large trees should be provided in the design, particularly at the front and back of the site (trees nominated in the planting schedule do not meet this requirement). To provide this deep soil zones it may be desirable to remove some storage area at the front and some parking basement at the rear (6m minimum consolidated deep soil zone)."*

Comment: Following the above, plans were amended by the applicant and the final scheme

incorporates a 6.5m depth of deep soil within the rear of the site. This is proposed to comprise a communal open space area for future residents and incorporates a range of shrubs and trees with a mature height of 3.5m - 8m in total. Further to the aforementioned, the proposed development complies with the ADG in relation to the provision of solar access and cross ventilation to units and was accompanied by a BASIX certificate which confirms energy efficiency measures proposed to be implemented on site. The proposal is satisfactory in this regard.

Principle 5 – Landscape

The DRP noted as follows:

a) "The design includes ground floor landscape spaces and a communal rooftop space. It is unclear if ground floor landscape is privately owned or is part of communal open space. This requires clarification. Of particular concern is the relationship of landscape 'communal' space to 'private' courtyards of the ground level apartments to the rear (Units 3 and Unit 2). If this is communal open space, this layout requires complete redesign to provide appropriate privacy and amenity. Deep soil should be provided as noted above in accordance with Council's minimum requirement of 15%. This should be landscaped with large trees."

Comment: Plans have been revised in order to delineate between private and communal open spaces on the ground floor level, with fencing details provided. Revised plans illustrate a total of 139sqm (16.4%) of deep soil planting on site complying with both the provisions of the RDCP 2011 and ADG.

b) ' The design of the rooftop space with a centrally located water feature is potentially highly problematic in regard to maintenance, water leakage and usability. Furthermore, the design does not provide a consistent buffer along the edges to minimize overlooking to surrounding apartments and should be redesigned. Consideration should be given to providing more planting and less paving. The design proposes a hedge planting using a single species for a large proportion of the site. A more diverse planting strategy should be explored that responds to varying solar access. Unusable lawn spaces should be removed and replaced with planting."

Comment: The water feature referred to above has since been deleted, with consistent buffer planting (Indian Hawthorn maximum height 1.2m) proposed to the periphery of the proposed communal rooftop terrace within a raised 1.2m high and 1.5m deep masonry planter.

d) All services including hydrants, substations and detention tanks should be clearly shown on all drawings. These should be located clear of deep soil zones and external garden spaces and integrated into the building footprint.

Comment: Final plans illustrate the provision of hydrant boosters contained within the primary setback. Council's Development Engineer has reviewed the concept stormwater plans and applied conditions relating to the design and location of the absorption pit to be in accordance with the Rockdale Technical Specification - Stormwater Management.

e) Insufficient details have been provided on vertical gardens. This is of concern given the proximity of neighbouring apartments and potential for planting failure. A Built Form solution to address privacy issues should be pursued rather than relying on planting that may not provide adequate cover.

Comment: Vertical gardens have been deleted from the revised architectural plans.

The proposal is deemed to be satisfactory in regards to this principle.

Principle 6 – Amenity

The DRP noted that the 'building configuration and narrow setbacks have created a range of amenity issues. Of particular concern is Unit 2 and above which is compromised by the location of the dining space in Unit 3 and above and the constrained outlook for the living space which results in the need for significant screening along the northern façade. It would be preferable to either have one unit to the rear of the site facing the rear open space or a revised arrangement where both units at the rear building are oriented to the rear open space, with unimpeded outlook. Bedrooms facing inadequate side boundaries and requiring privacy screens should be minimised and bedroom sizes (Bedroom 2 in Units 1 and 4) should comply with the ADG requirements. Studies in Unit 2 and above would benefit from a window.'

Comment: Revised architectural plans illustrate Units 2 and 3 to provide habitable areas reorientated to the west/north-west with a rear, unimpeded outlook. Improvements have been made to the scheme i.e. addition of windows to studies, bedrooms comprising a minimum area of 10sq/m, highlight windows provided to south facing bedrooms in lieu of screens. It is considered that the design of the building and its floor layouts maximise amenity for future occupants and better respond to the constraints of the site as noted by the DRP above.

"Units have excessive corridors, particularly Units 3 and similar units above and should be redesigned. The room dimensions seem very tight and should be reviewed."

Comment: Lobbies and corridors to all floors have been redesigned with all Bedrooms within units comprise a minimum area of 10sq/m, complying with the provisions of the ADG.

"Rooftop space requires redesign to maximize use and provide adequate privacy for neighbouring properties."

Comment: Revised architectural plans illustrate the trafficable floor area of the communal terrace and private balcony to Unit 10 is setback 4.5m from the northern and southern allotment boundaries. The increased building separation and overall lowering of the building height with periphery planting has resulted in sufficient privacy measures to reduce the potential for overlooking to both northern and southern adjoining residential dwellings.

"The balcony design includes wide expanses of clear balustrades. This presents privacy issues for residents and presents poorly to the street. Solid balustrades should be used."

Comment: This matter can be addressed by way of a condition imposed on any consent granted by the Panel.

A reduction in the overall building height (800mm +) has resulted in the lowering of POS areas to Units 2 and 3 which are now level with the rear communal open space area, maintained at RL5.9. 1.8m high fencing is proposed to the western end of POS areas to Units 2 and 3. The lowering in the overall building height; NGL's and POS areas resolve previous matters relating to a sense of enclosure. Revised details ensure a well designed communal area on site.

Concern is also raised in regards to the design of the proposed rooftop communal open space area. This area is exposed and comprises significant hard paved areas which given its western orientation would require some form of shading or weather protection to be erected in future in order to render this space useable. Additionally, nil facilities associated with communal open spaces i.e. kitchenette, bbq etc are proposed and as such amenity for future occupants in relation to communal open space areas on site is limited and can be improved.

Design improvements are deemed to be warranted to the proposal in its current form in order to confidently state that the proposal satisfies this principle and maximises amenity for future occupants and existing neighbours. This matter can be addressed by way of a condition imposed on any consent granted by the Panel.

Principle 7 - Safety

The DRP noted that the *"position of the access/entry down a long side walkway is undesirable and raises security concerns. Consideration should be given to a visually unobtrusive security gate at the front of the building."*

Comment: Revised architectural plans address the above via the addition of a 1.8m high open form security gate with accompanying intercom positioned 1m behind the proposed building line. The provision of the aforementioned is deemed to resolve the concern raised by the DRP above as access to the physical building entry and lobby is thus restricted. Further, residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal is satisfactory in regards to this principle.

Principle 8 - Housing Diversity and Social Interaction

The DRP is of the view that the *"current mix is acceptable."*

Comment: The revised proposal maintains a range of units and thus housing options which respond to changing lifestyle needs and cater to different household types and income groups. The proposal is satisfactory in regard to housing diversity. As referred to above within Principle 6 - Amenity, the communal open space areas on site could be improved in order to encourage and facilitate social interaction between future residents and this can be addressed by way of condition imposed on any consent granted by the Panel.

Principle 9 – Aesthetics

The DRP noted that the *"view provided of the elevation from the front appears to not have supporting structure for the balconies or the over-scaled roof/pergola. This misrepresents the actual façade treatment and should be resolved. The uncompromising horizontal concrete and glass façade is not in context with surrounding development."*

Comment: Final revised plans illustrate the increase in side setbacks for the upper level balcony and communal terrace reduce the extent of horizontality in building design referred to by the DRP. The provision of concrete and glass as primary elements to the façade remain however are softened with privacy screening and landscaping. The proposal is not satisfactory in this regard.

c. the Apartment Design Guide

The proposal has been assessed against the design criteria of the Apartment Design Guide (ADG) as follows:

CLAUSE	DESIGN CRITERIA			COMMENTS	COMPLIES
3D - Communal Open Space	25% Site Area (211.85sq/m) 50% (105.9sq/m) direct sunlight to principle useable part of COS for 2 hours in midwinter between 9am - 3pm			106sqm ground floor COS at rear of site / 109sqm communal rooftop terrace Total = 215sqm 2 hours direct sunlight achievable to proposed areas of COS	Yes Yes
3E - Deep Soil Zones	7% (59.3sq/m) site area Minimum dimensions of 3m			106sqm at the rear of site and 19sqm within the primary setback (14.7%) retained as deep soil area with dimensions > 3m	Yes
4D – Apartment size and layout	Apartment type		Minimum internal area	1 bed = 50sq/m 2 bed = 76sq/m - 80sq/m 3 bed = 90sq/m - 93sq/m	Yes
	1 bedroom		50M ²		
	2 bedroom		70m ²		
	3 bedroom		90m ²		
4C – Ceiling heights	Minimum ceiling heights:			2.7m habitable 2.4m non habitable	Yes
	Habitable		2.7m		
	Non-habitable		2.4m		
3F Visual Privacy	Building height	Habitable rooms and balconies	Non habitable rooms	3m side building setbacks to the north and south common side boundaries from Ground Level to Level Three with increased upper level 4.5m setbacks for Level Four	No - See discussion below.
	Up to 12m (4 storeys)	6m	3m		

4A – Solar and daylight access	Living rooms + POS of at least 70% (8/11) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter Max 15%(2/11) apartments receive no direct sunlight b/w 9am & 3pm mid-winter	All units receive 2 hours of solar access in midwinter Nil units receive no direct sunlight in midwinter	Yes Yes												
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.	Three units off a single core	Yes												
4E – Private open space and balconies	<table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>1 bed</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bed</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bed</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	1 bedroom units (5/8) - 6.4sq/m / Min depth 2.1m 2 bedroom units - 23sq/m / Min depth 3.4m 3 bedroom units - 49sq/m / Min depth 2.5m Ground level units comprise courtyards >15sq/m in area with minimum depth of 3m.	Yes - Revised architectural plans show all balcony depths reduced by 1m + as per the Panel recommendations with all POS areas for 1 bedroom apartments adjusted to be no less than 8sqm. Yes Yes Yes
	Dwelling type	Minimum area	Minimum depth												
	1 bed	8m ²	2m												
	2 bed	10m ²	2m												
3+ bed	12m ²	2.4m													
Ground level, podium or similar -POS provided instead of a balcony: min area 15m ² and min depth of 3m.															
4B – Natural ventilation	Min 60% (7/11) of apartments are naturally cross ventilated in the first nine storeys of the building.	All units are naturally cross ventilated	Yes												
4G – Storage	<table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>1 bed</td> <td>6M²</td> </tr> <tr> <td>2 bed</td> <td>8m²</td> </tr> <tr> <td>3 bed</td> <td>10m²</td> </tr> </tbody> </table>	Dwelling type	Storage size volume	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	Appropriate storage provision within units	Yes				
	Dwelling type	Storage size volume													
	1 bed	6M ²													
	2 bed	8m ²													
3 bed	10m ²														

3F - Visual Privacy

Plans illustrate the provision of proposed habitable rooms within 3m of the common side boundaries to both adjoining neighbours at 106 and 112 The Grand Parade. Building separation between existing neighbouring buildings and the proposed development are identified in the table below.

Property	Existing setback from common side boundary with subject site	Proposed Development side setback to all levels	Building Separation
112 The Grand Parade (rear 3 units)	Balconies – 2.165m Northern façade – 3.1m	3m (Ground to Level 3) and 4.5m (Level Four)	Min 5.165m neighbouring balcony to proposed southern façade. Min 6.1m northern façade of neighbouring building to southern façade of proposed development
112 The Grand Parade (3 x street facing units)	Balconies – 3.9m Northern façade – 5.5m	3m (Ground to Level 3) and 4.5m (Level Four)	Min 6.9m neighbouring balcony to proposed southern façade. Min 8.5m northern façade of neighbouring building to southern façade of proposed development
106 The Grand Parade	Southern façade – 2.4m	33m (Ground to Level 3) and 4.5m (Level Four)	Min 5.4m southern façade of neighbouring building to northern façade of proposed development

Habitable windows i.e. bedrooms, dining and living areas exist upon the northern façade of 112 The Grand Parade, with kitchen windows upon the southern façade of 106 The Grand Parade. As can be seen above, the proposal departs from the building separation requirements of the ADG. As such consideration is to be given to the objectives of the building separation requirements, which is to retain reasonable levels of external and internal visual privacy between residential neighbours. Revised architectural detail illustrate privacy screening or obscured glass to be provided to all side glazing and balconies. Windows to habitable rooms and bedrooms are provided with minimum will heights of 1600mm with the inclusion of 1500mm wide planters provide additional separation to minimise privacy impacts and potential for overlooking. The corner windows at the rear 2 bedroom units have been deleted from revised plans also.

The above measures are considered to resolve privacy issues between neighbours as given the height of proposed windows and direct sightlines to neighbouring properties is now not possible.

Living areas to proposed Units 4/7/10 are oriented to front the street. Full height glazing is provided to the eastern end of these units, with full height glazed windows also proposed to northern and southern facades. This is intended to maximise solar access, outlook and views of Botany Bay to these units. As can be seen below, proposed privacy screening directly adjoin balcony spaces and a portion of the living / dining room windows, with the full extent of these windows is now screened.

The objectives of this principle are satisfied.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.6 Architectural roof features	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 4	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

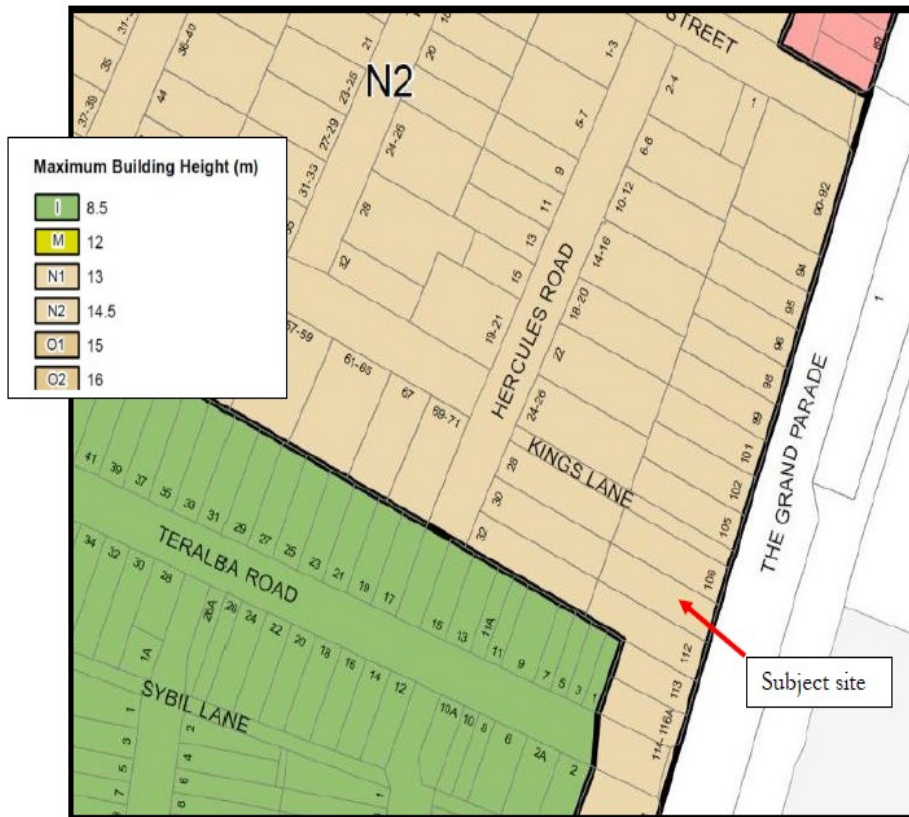
The subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a residential flat building which constitutes a permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing residential flat building and hence satisfies the provisions of this Clause.

4.3 Height of buildings

Clause 4.3(2) of the RLEP 2011 permits a maximum building height of 14.5m for the subject site as shown in the Figure below.



The objectives of this Clause are as follows:

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

The proposed development seeks a maximum building height of 14.8 metres (RL 21.3 - RL 6.5) to accommodate the top of lift/stair overrun and therefore exceeds the maximum permitted by 300mm. This represents a 2% variation to the numerical development standard. The application is accompanied by a revised and written Clause 4.6 submission seeking to vary the numerical provisions of this Clause, the merits of which are discussed below.

4.4 Floor space ratio - Residential zones

Clause 4.4(2) of the RLEP 2011 permits a maximum FSR of 1:1 for the subject site. The objectives of this Clause are as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale;
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties;
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.

Revised architectural plans demonstrate a reduced and now compliant FSR of 1:1 which complies with the numerical provisions of this Clause. As the proposal has demonstrated compliance with the maximum development density, and minimised adverse environmental effects by doing so, the proposal is considered to also satisfy the relevant objectives of this Clause.

The proposal is supported in this instance.

4.6 Exceptions to development standards

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

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

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

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

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

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

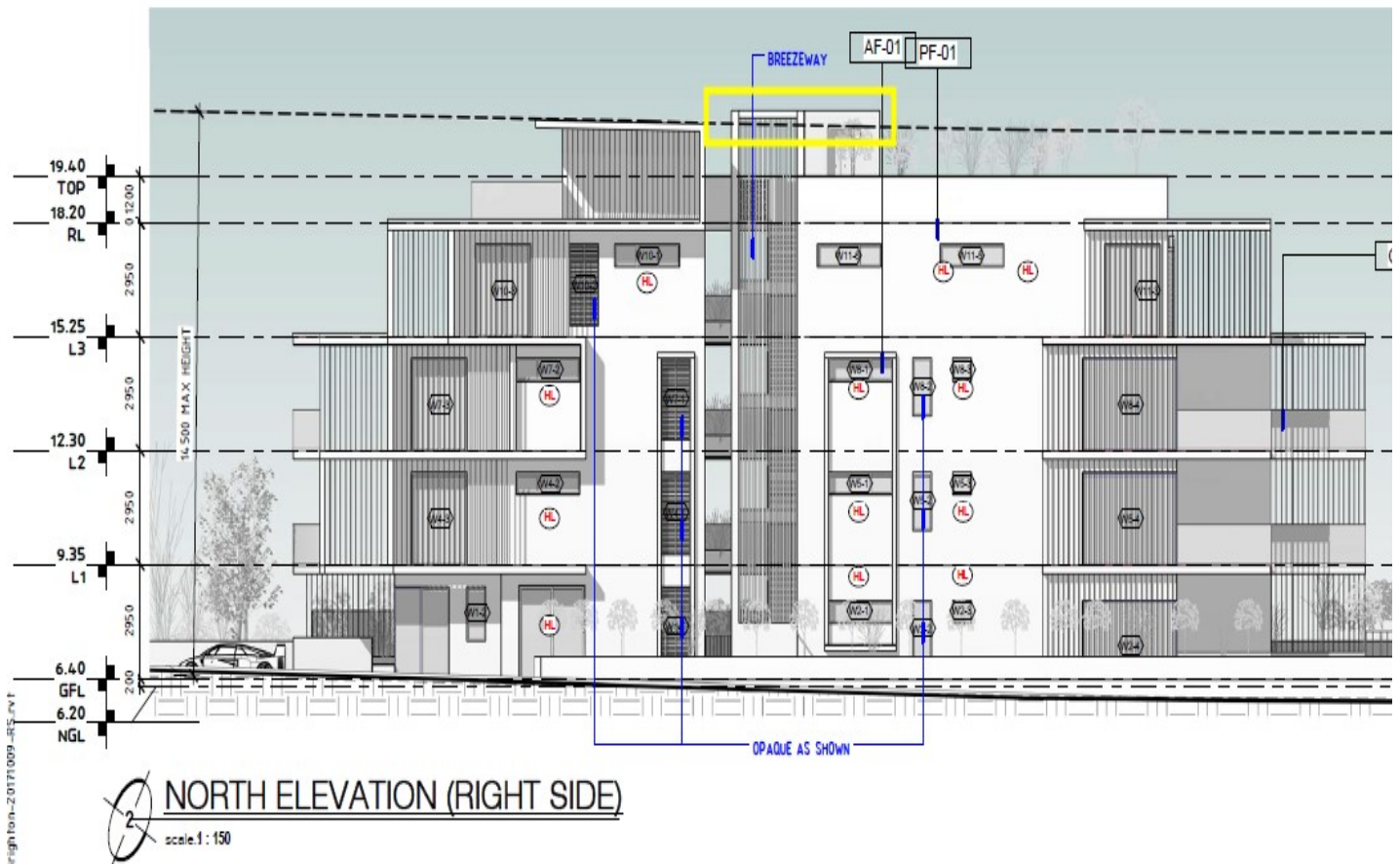
5(b) the public benefit of maintaining the development standard.

The variations to the height standard has been assessed below.

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

Variation Sought - Height

As noted within Clause 4.3 Height of Buildings, the proposal seeks to vary the maximum 14.5m height standard applicable to the subject site by 0.3m to accommodate the top of the lift / stair overrun. This equates to a variation of 2% to the maximum permissible height limit on site and is shown in yellow in the figure below.



Applicants Height Justification

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the height development standard are summarized as follows;

- A better planning outcome is provided by varying the standard in this instance.
- The non-complying height of the proposed building mainly results from the proposed lift shaft and staircase to the communal roof terrace on the rooftop of the building which will result in an increased amenity for residents. This area, with water views and landscaping, allows for a better planning outcome on the site than if communal open space was only provided at ground level.
- Minimal impacts on the amenity of adjoining properties given there are no unreasonable impacts on views, privacy or overshadowing arising from the additional height. The proposal is largely orientated to the street and rear communal open space and away from the adjoining properties, reducing overlooking opportunities, while the shadow cast arises mainly from the building itself and not the additional height given this area comprises a small lift shaft and staircase roof.
- The proposal will have minimal impact on the streetscape given any potential visual impact arising from the proposal and its additional height above the standard is minimised by, among other things, the proposed building articulation and architectural detailing proposed for the built form on the site, which is provided within the additional height.
- The elaborate roof structure, which also adds to the non-complying building height non-compliance, provides the building with a defined 'top' and provides visual interest from the street and adjoining properties.
- The proposal, with the additional height, is consistent with the desired future character of the area and is consistent with other buildings in the vicinity including buildings at 94, 117 and 122 The Grand Parade Brighton

- The subject site largely remains the only undeveloped or under-developed site in the street. The vast majority of the street consists of three to four storey residential flat buildings, with the exception of the subject site which remains as a small two storey multi-unit building. In this respect, the subject site is, in effect, an isolated site.

- This isolated nature of the subject site results in sufficient environmental planning grounds being evident on the site to allow an exceedance of the building height development standard

- This existing site constraint, being virtually the last remaining development site in the street, provides an opportunity unique to this site, to provide for a 11 unit development which generally complies with the minimum unit sizes under the ADG and provides for a high level of amenity with a variety of unit sizes. This unique site attribute represents sufficient environmental planning grounds to justify varying this development standard in this instance.

Strict compliance with the height control is unreasonable and unnecessary on the following grounds:

- a) The non-compliant portion of the building is located centrally within the rooftop footprint and is unlikely to be perceived from public domain viewpoints, specifically The Grand Parade;
- b) The additional 300mm building height does not result in increased floor space or dwelling yield;
- c) The non-compliant building height does not result in additional shadow impacts in midwinter to either the POS areas or habitable windows to the southern neighbouring building at 112 The Grand Parade as compared to a compliant envelope;
- d) The non-compliant building height does not result in increased privacy impacts to surrounding dwellings;
- e) The proposal has demonstrated consistency with the objectives of Clause 4.3 - Height of Building, in that the proposal maintains an appropriate transition in built form and height within the existing context.
- f) Due to the reasons contained above, the proposal is considered to achieve an appropriate outcome on site and is therefore in the public interest;

Council Comment:

The applicants written request has satisfactorily addressed the provisions of clause 4.6(3). Following a review of the application, the minor point encroachment of 300mm and 2% variation in building height is supported for the following reasons:

- The proposed area which results in the extent of the technical non-compliance is not considered to result in a size or scale of development that is incompatible with the desired future character of the locality. The proposal is of a height which is commensurate with the approved and emerging residential building heights within the immediate site context, including those to the north; south and south west;
- The absence of environmental impacts associated with the 2% non-compliance in regards to view loss; shadows and loss of privacy further underlines the reasonableness of the height variation in this instance;
- The proposed building height is not inconsistent with the Building Height control as referred to within the ADG;
- The proposed variation results in a better planning outcome than compliance with the maximum permissible height;
- In this context, the proposed development is consistent with the objectives of Clause 4.3 - Height of Buildings of the RLEP 2011 as it maintains satisfactory sky exposure to nearby buildings and the public domain.

Given the site and development circumstances as discussed above, the proposed additional height sought by the applicant is not considered to be unreasonable in this instance and is supported. The

proposal provides for a development that facilitates the orderly and economic development of the site and in appropriate manner. The particular circumstances of the non-compliance are considered to outweigh strict adherence to the numeric standards presented by Clause 4.3 of the RLEP 2011.

It is considered therefore, there are sufficient environmental planning grounds and site circumstances which justify contravening the subject Clause for this site.

5.6 Architectural roof features

Revised architectural plans demonstrate the proposed rooftop structure, including communal terrace area, to be wholly contained within the maximum height limits prescribed for the site. The proposed rooftop structure does not contain or support associated fire stairs or lift overruns. The aforementioned are separate detached structures which exceed the height limit independently of the rooftop structure.

The provisions of this Clause have been satisfied and the proposal is acceptable in this regard.

5.10 Heritage conservation

The proposed development is located in the vicinity of heritage item, being Cook Park which lies opposite the site on the eastern side of the Grand Parade. Cook Park is a major public open space area 42 hectares in size, extending to the north and south beyond the site boundaries, along the shoreline of Botany Bay from Sans Souci to the Cooks River.

Established in 1886 Cook Park provides evidence of the late 19th century development of the area as the creation of the park was in direct response to the expanding urbanisation. The dominant tree in the park is the *Araucaria heterophylla* commonly known as Norfolk Island Pine. The tree is endemic to Norfolk Island but has been cultivated in Australia since the 19th century. Some of the trees are mature and were probably planted circa 1886, other trees were planted in the 1930's. Cook Park also has historical associations with early developers Saywell and Cook. Aesthetically Cook Park is significant in its role as defining the character of the suburb and the edge of Botany Bay.

The proposed development lies opposite Cook Park, with a horizontal separation distance of 32m from the front boundary of the site to the property boundary of Cook Park. The subject site is considered to be sufficiently separated from Cook Park so as not to result in any adverse environmental impacts upon the recreation area or impact upon the existing, mature and iconic Norfolk Island Pines.

The proposed development is unlikely to adversely impact upon the integrity or significance of the heritage item and thus the qualities that makes the heritage item and its setting significant will not be diminished. The proposal is satisfactory in this regard.

6.1 Acid Sulfate Soil - Class 4

Acid Sulfate Soils (ASS) – Class 4 affect the property. Development Consent is required as the proposal involves works greater than 2m below the natural ground level that may lower the water table. As per the provisions of 6.1(3) an Acid Sulfate Soils management plan is required to be submitted for consideration. The application was accompanied by a Geotechnical and Acid Sulfate Soils Investigation Report prepared by Geo - Environmental Engineering dated 18/05/2016. The report concluded as follows:

'Based on the subsurface soil conditions encountered beneath the site, the field screening test results, and laboratory test results, GEE considers that the soil profile beneath the site and within the depth of proposed excavation does not contain ASS or PASS. Consequently GEE considers that an

acid sulfate soil management plan is not warranted".



Locations of borehole testing onsite

Given the above confirmation by a suitably qualified engineering consultant, an ASS management plan is not required in this instance. The proposal is satisfactory with regards to the objectives of this clause.

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.7 Stormwater

The proposal involves the construction of both an on site detention system within the basement and a retention system within the front yard to manage stormwater. The concept detail has been revised by Council's Development Engineer and determined satisfactory, subject to conditions imposed on any consent granted by the Panel. The proposal is therefore satisfactory in regards to the provisions of 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

Draft ISEPP

The NSW Department of Planning has released for public comment its amendments to the State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP). The amendments to the Infrastructure SEPP propose to simplify the delivery and maintenance of social infrastructure including health facilities, correctional centres, emergency and police services, and council services. They will simplify the approval process while still ensuring appropriate levels of environmental assessment and consultation are undertaken for these activities. The draft changes do not affect the proposed development.

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:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
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
4.1.3 Groundwater Protection	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	No - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes - see discussion
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	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 - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Site Coverage	Yes	Yes - see discussion
5.2 RFB Front Setback	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	No - see discussion
5.2 RFB - Building Entry	Yes	No - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion

4.1.1 Views and Vista

Refer to Appendix 1 for view loss assessment.

4.1.2 Heritage Conservation - Vicinity of Heritage Item

As discussed in the above body of this Report, the proposed development lies opposite Cook Park, with a horizontal separation distance of 32m from the front boundary of the site to the property boundary of Cook Park. The subject site is considered to be sufficiently separated from Cook Park so as not to result in any adverse environmental impacts upon the recreation area or impact upon the existing, mature and iconic Norfolk Island Pines.

The proposed development is unlikely to adversely impact upon the integrity or significance of the heritage item and thus the qualities that makes the heritage item and it's setting significant will not be diminished. The proposal is satisfactory in this regard.

4.1.3 Water Management

As discussed in the above body of this Report, the concept stormwater plan has been revised by Council's Development Engineer and determined satisfactory, subject to conditions imposed on any consent granted by the Panel. The proposal is therefore satisfactory in regards to the provisions of this clause relating to water management.

4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3 and the application is accompanied by a *Geotechnical and Acid Sulfate Soil Investigation Report - Report ID G16045BLS-R01F* and dated 18 may 2016. The Report investigates the subsurface conditions across the site to determine assurances of geotechnical feasibility of the proposal in accordance with the SCCG (2006) *Groundwater Management Handbook: A guide for local government*.

The proposal seeks excavation and bulk earthworks to a depth of RL1.10 or 6.5m, intercepting the groundwater protection zone. Subject to compliance with the recommendations contained within the Report, the proposal is considered to be appropriate for the site and the provisions of this Clause are therefore satisfied.

4.1.4 Soil Management

The application is accompanied by a Soil & Water Management Plan which demonstrates general erosion and sediment control strategies to ensure that the potential for impact on adjoining land and surrounding waterways is minimised. Subject to conditions imposed on the draft Notice of Determination, including temporary fencing to be erected along the boundaries of the site, the provisions of this Clause are satisfied.

4.1.9 Lot size and Site Consolidation - Residential flat buildings

Variation to Minimum 24m Lot Width - Control 1(e) of Part 4.1.9 of RDCP 2011

The application involves the redevelopment of the subject site which comprises a site frontage of 15.355m and overall site area of 847.4sq/m as per the submitted survey. The existing frontage falls 8.6m short of the minimum 24m frontage required by the provisions of this clause.

Plans and documentation submitted with the application demonstrate the subject site is isolated and therefore, an infill development is suitable in this instance. The subject site is surrounded by existing strata subdivided residential flat buildings to the south, north and west. It is understood that the applicant has sought to purchase the adjoining existing residential flat building to the north, 106 The Grand Parade, which comprises 10 residential dwellings, yet was unsuccessful. As such the applicant has proceeded with the subject application.

The proposal is considered to satisfy objectives (A)(B)(C)(E) of this clause for the following reasons:

(A) The proposal is providing an the existing residential flat building use on site, compliant with the maximum numerical provisions of Clause 4.4 relating to FSR, providing for residential accommodation in an accessible and desirable location thus making efficient use of the land.

(B) The applicant has sought to amalgamate the site with the adjoining northern neighbour at 106 The Grand Parade. Negotiations between neighbours has failed. The subject site is of suitable overall area and dimensions to accommodate a reasonable increase in density.

(C) The proposal includes car parking and deep soil areas which comply with the ADG requirement and provides pedestrian access at ground floor level, continuing an active street frontage which provides adequate passive surveillance of the street.

(E) Adjoining sites as existing are currently developed as residential flat buildings and are thus likely to be able to be economically developed in their own right.

Revised plans demonstrate the proposal satisfies objective (D) *"To maintain amenity in relation to overshadowing, privacy and views by having sensitive layout of buildings"* in relation to privacy, given the reasons discussed within this report. Accordingly, it would be prudent for the applicant to further pursue the acquisition of the northern adjoining neighbouring site or redesign the proposal in order to resolve adverse impacts generated by the proposed development in its current form.

As such it is stated that the proposal satisfies this clause.

4.2 Streetscape and Site Context - Fencing

As per the provisions of this clause, front fencing is to be a maximum height of 1.2m above footpath level. Plans do not illustrate the provision of a designated front fence to the proposed development, rather masonry structures to a maximum height of 1m adjoining the vehicular and pedestrian entries to delineate between the public and private domain, with landscaped area between.



Existing neighbouring front fencing

Given the predominant existing low front boundary fencing in context of the site, the provision of a low front boundary fence to a maximum height of 1m would be more appropriate, in lieu of the current design as proposed. Whilst the proposal technically complies with the provisions of this clause, the proposal could be improved as discussed above.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

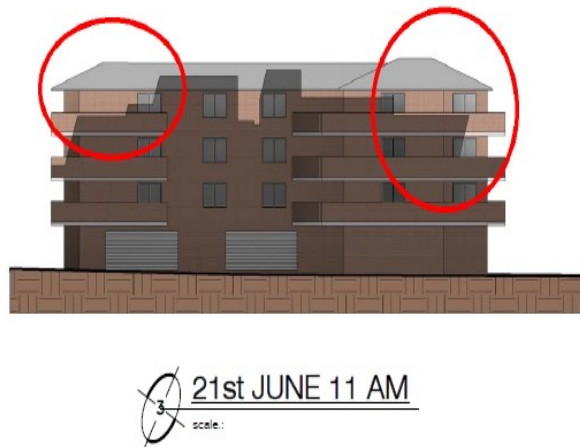
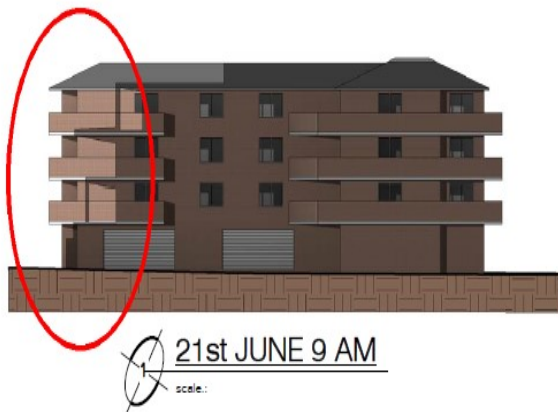
As per the objectives and requirements of this clause new development is not to unreasonably diminish sunlight to neighbouring properties and must be designed to minimise the extent of shadows it casts upon the private open space and habitable rooms of adjoining developments.

New developments are to be sited to reduce overshadowing on adjoining properties by increasing setbacks, staggering of design, variations in roof form and/or reducing building bulk and height.

The living rooms and private open spaces for at least 70% of apartments of adjoining properties should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter. Given the aforementioned, the proposed development is thus required to ensure that a minimum of 4 of 6 of the residential units within 112 The Grand Parade receive a minimum of 3 hours of direct solar access in midwinter between the hours of 9am - 3pm.

Revised Elevation Shadow Diagrams, Drawing No. DA611 and DA612, show the resultant overshadowing cast from the proposed development upon units within 112 The Grand Parade which is positioned directly south of the subject site:

a) The three units at the front of the block facing The Grand Parade, receive in excess of 1 hour of morning sun at 9am to their east facing balconies and to a portion of their east facing habitable areas. By 10am, this sunlight is restricted to a smaller portion of their east facing balconies. Units on L1 and L2 receive nil sunlight for the rest of the day.



b) Of the three units within the rear of the block, two units (1 x L2 / 1 x L3) will receive a total of 3 hours of solar access in midwinter from 12pm - 3pm as depicted by elevational shadow diagrams. The L1 unit within the rear of the block receives partial sunlight to a portion of its west facing balcony at 12pm, and a minimum of 2 hours of solar access from 1pm - 3pm in midwinter. The unit on the top floor (L3) receives partial sun to its northern bedroom / dining room window and balcony space between 2pm - 3pm. Overall these units will receive no less than 2 hours of solar access in midwinter.



1 21st JUNE 12 NOON
SCALE:



2 21st JUNE 1 PM
SCALE:



3 21st JUNE 2 PM
SCALE:



4 21st JUNE 3 PM
SCALE:

A reduction in the overall building height; full compliance with the maximum permitted FSR and increased side setbacks to the communal rooftop terrace and Unit 10 upper floor area result in compliant solar access schemes for the southern adjoining development. The proposal therefore satisfies the provisions of this Clause.

4.4.5 Acoustic privacy

Given the nature of the proposal as infill development, increased Level 4 setbacks to both Unit 10 and communal rooftop area, it can be confidently stated that the proposal complies with the following objective:

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

4.5.1 Social Equity - Housing Diversity and Choice

The proposal is required to provide the following unit mix as per the provisions of this clause.

Control	Requirement	Proposed	Complies
10%-30%studio / 1 bed	2 - 4	3	Yes
50%-75% 2 bed	6 - 9	3	No
10% - 20% 3 bed	2 - 3	5	No

As can be seen above the proposal does not comply with the required unit mix on site. Notwithstanding, the proposal provides a range of housing options within the proposed development which will enable

changing lifestyle needs and cater to different household types and income groups. The proposal is considered to be consistent with the objectives of this clause. A variation in this instance is deemed satisfactory.

4.5.2 Social Equity - Equitable Access

As per the provisions of this clause, a minimum of two (2) adaptable units are required to be provided within the development. The applicant has nominated Units 1 and 4 as shown on Adaptable Unit, Drawing No. DA109 which thereby satisfies the provisions of this Clause.

4.6 Parking Rates Residential Flat Buildings

As per the provisions of this clause a total of 19 car spaces (16 residential / 3 visitor) is required for the development. A dedicated car wash bay is also required. Plans illustrate the provision of 19 car spaces within the proposed basement levels in addition to a dedicated car wash bay. The proposal complies with the numerical requirements of this clause.

4.6 Car Park Location and Design

As discussed in the above body of this Report, the application is considered under the remit of Clause 101 of the SEPP (Infrastructure) and determined satisfactory with regards to RMS requirements for road openings fronting a Classified Road. Additionally, the construction of the 6.1m wide vehicle footway crossing has been reviewed by Council's Development Engineer and determined satisfactory, subject to conditions imposed on any consent granted by the Panel.

4.6 Vehicles Enter and Exit in a Forward Direction

Revised architectural plans have been reviewed by Council's Development Engineer and determined satisfactory with regards to the design and construction of off-street parking facilities and vehicular access requirements in accordance with AS2890.1 and AS2890.6. Subject to conditions imposed on any consent granted by the Panel, the provisions of this Clause apply .

4.6 Basement Parking - General

The provisions of this clause require basement car parking to be adequately ventilated, located within the building footprint to enable deep soil planting and be located fully below ground level, unless the site is flood affected, whereby a maximum protrusion of 1m is permitted. Revised architectural plans illustrate the proposed basement level to be almost wholly contained below NGL.

The site is not flood affected and increased deep soil planting has ensured the objectives of this Clause have been met. Further, the lowering of the overall building height and increased Level 4 setbacks has minimised adverse impacts on site and to neighbouring properties.

The proposal is therefore satisfactory with regards to the provisions of this clause.

4.6 Driveway Widths

Council's Development Engineer has determined the 6.1m wide vehicle footway crossing acceptable with regards to the Rockdale Technical Specifications and therefore acceptable with regards to this Clause.

4.6 Basement Parking - Residential Flat Buildings

Revised architectural plans demonstrate all off-street parking facilities to be wholly contained within the basement level car park, with the exception of the at-grade passing bay located within the primary setback. The provisions of this Clause are therefore satisfied.

4.6 Access to Parking

Revised architectural plans illustrate three (3) visitor parking spaces to be located on Basement Level 1 in addition to three (3) accessible parking spaces in close proximity to lifts and access points. The provisions of this Clause are satisfied.

4.6 Design of Loading Facilities

An SRV loading / unloading area with dimensions 6.4m length x 2.3m width x 3.5m clearance height is required to be provided on site.

Revised plans illustrate the SRV loading/unloading area to be relocated within the Basement Level 1 thereby allowing for the provision of a passing bay to be contained within the primary setback. Council's Development Engineer has reviewed the revised architectural plans and determined this to be satisfactory with regard to preventing pedestrian and vehicular movements in accordance with the provisions of this Clause.

4.6 Car Wash Facilities

Plans illustrate the provision of an appropriately located and dimensioned car wash bay within Basement Level 1 of the proposed development in accordance with the provisions of this Clause.

4.7 Air Conditioning and Communication Structures

Plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed on the draft Notice of Determination requiring air conditioning units to be obscured from public view should they be provided. Subject to conditions, the development is acceptable with regards to this Clause.

4.7 Waste Storage and Recycling Facilities

The application is accompanied by a Waste Management Plan (WMP) prepared in accordance with Council's Technical Specifications - Waste Minimisation and Management regarding construction waste and in this regard, satisfies the objectives of this Clause. In addition, the development incorporates appropriate waste management facilities contained wholly within Basement Level 1 with direct and convenient access to The Grand Parade for waste collection. Bin storage areas are of appropriate overall dimensions and area for the proposed development and the proposal is acceptable with regards to this Clause.

4.7 Service Lines/Cables

The applicant has advised that a substation is not required for the proposed development. Additionally, a condition is imposed on the draft Notice of Determination that should service lines and cables be required, this detail to be screened from public view. Subject to conditions, the provisions of this Clause are satisfied.

4.7 Laundry Facilities and Drying Areas

Plans illustrate the provision of internal laundry facilities within residential units.

4.7 Letterboxes

Plans illustrate the provision of letter boxes adjoining the main pedestrian entrance to the site.

4.7 Hot Water Systems

A condition is imposed on the draft Notice of Determination which requires hot water systems on

balconies to dwellings to be encased in a recessed box with the lid/cover designed to blend with the building. All associated pipe work is to be concealed. Subject to condition, the proposed development is acceptable with regard to this Clause.

5.2 RFB - Site Coverage

As per the provisions of this clause, the maximum building footprint, area of land measured at finished ground level which is enclosed by the external walls of a building, permitted for residential flat buildings is to be limited to 35% (296.5sq/m) of the site area.

A manual assessment of plans illustrates that the proposal comprises a building footprint of 33.7% (286sq/m) and complies with the provisions of this clause.

5.2 RFB Front Setback

As per the provisions of this clause the front setback of the proposed development is to be consistent with the prevailing setback along the street. The front setback of established neighbouring developments fronting The Grand Parade is as follows, noting the splayed nature of the front property boundary to sites in this location:

- 105 The Grand Parade - 6m - 7.5m
- 106 The Grand Parade - 3m - 4.1m
- 112 The Grand Parade - 7m - 8m
- 113 The Grand Parade - 2.7m - 3.5m

The proposal comprises a front setback of 5.9m - 6.3m to the balcony edge of street facing units. The proposed front setback is not overly dissimilar with the prevailing established front setbacks along The Grand Parade and is deemed to be satisfactory.

5.2 RFB - Side Setbacks

As per the requirements of this clause, a 3m side setback is required up to level 2 of the development, with level 3 (top level) to be provided with a 4.5m side boundary setback. Revised plans illustrate the provision of a 3m side setback to all levels to both sides of the development with the uppermost communal terrace area and Unit 10 setback 4.5m from the side boundaries. Council's Coordinator and Senior Planner agreed that the privacy screen and facade features could be maintained at 3m to retain the wrap around feature of the facade. This illustrates a variation of 1.5m and is determined to pose little impact to adjoining residential developments south of the site.

Notwithstanding the above, the building separation requirements of the ADG take precedence and the impacts of reduced building setbacks and separation i.e. Visual Privacy, Overshadowing and the like have been discussed previously within this report. The revised scheme is deemed acceptable in this instance.

5.2 RFB - Rear Setbacks

A minimum 12m rear setback is required from the rear property boundary to the balcony edge of the proposed development as per the provisions of this clause. The proposal comprises a rear setback of 10m to the balcony edge and 12.7m - 13.2m to the proposed rear building alignment. This is a variation of 2m.

Notwithstanding the above, the intention of this clause is to ensure privacy to residential neighbours to the rear is retained.

The following is noted with regards to rear building separation between the proposed development and existing residential flat buildings to the rear of the site.

Property	Existing Rear Setback	Proposed Rear Building Setback to Balcony Edge	Building Separation Proposed balcony edge to existing rear building line
28 Hercules Road	9.5m	10m	19.5m
30 Hercules Road	12.5m	10m	22.5m
32 Hercules Road	13m	10m	23m

As can be seen above, substantial building separation is provided between the rear balcony edge of the proposed building and rear building alignment of existing buildings upon 28/30/32 Hercules Road. The building separation noted above between sites is generally consistent with the building separation requirements of the Apartment Design Guide, i.e. 12m, which takes precedence over the provisions of RDCP 2011.

Given the above building separation identified, the proposed rear building setback is not unreasonable or likely to generate adverse privacy impacts with rear neighbour, beyond that which could otherwise be considered acceptable within the R4 High Density Residential zone.

5.2 RFB - Building Entry

As noted by the Design Review Panel, concern is raised in relation to the side entrance to the proposed development. The provisions of Clause 5.2.24 require that the entry of the development be designed so that it is a clearly identifiable element of the building in the street. The proposed building entry is recessed behind the building line and a significant distance from the street. Whilst this is contrary to the requirements of this clause, adequate regard has been given to the safety and security of future occupants via the incorporation of security access and the location of the entrance is not dissimilar to the side entries of neighbouring residential flat buildings. The proposal is satisfactory in this regard.

5.2 RFB - Lift Size and Access

A single lift core with stair access is provided to service Basement Level 2 to the upper floor areas. The lobbies are in excess of 2m in width and acceptable with regards to this Clause.

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

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

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

Potential impacts related to the proposal have been considered in response to SEPPs; LEP and DCP controls and deemed acceptable with regards to the matters of consideration contained therein. The impacts that have not been already addressed are as follows:

Social Impact

The proposed development will contribute to the public domain of The Grand Parade and includes residential units of adequate size and mix for the Brighton Le Sands demographics. Proposed residential units have access to appropriate serviced public transport means, including an array of bus networks. The development will provide a well designed and located communal area with facilities which encourage social interaction between future occupants on the site. The development is not considered to result in any adverse social impacts and considered satisfactory in this regard.

Construction

Construction of the proposal shall include excavation works, piling and a four storey residential flat building. Anticipated impacts will be minimised through the imposition 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. The development is considered to be a suitable for of development for the site and worthy of Council support in this instance.

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

The proposal was notified to neighbours on three occasions, in accordance with the provisions of Rockdale DCP 2011. A total of 41 letters of objection were received following the aforementioned notification periods. Multiple submissions i.e. 2 - 5 letters were received from 8 of the 10 objectors, whom wrote into Council. The issues raised in the submissions are discussed below:

Privacy impacts to neighbours

Comment: The matter of visual privacy has previously been discussed within this report. Revised architectural plans, including the provision of privacy screening and obscuring glazing with minimum sill heights of 1600mm minimise any adverse visual privacy impacts to the southern neighbouring units within 112 The Grand Parade.

Object to the number of trees proposed in rear of site blocking views from balcony and bedroom windows of units 11 and 12 on top floor within 30 Hercules Road

Comment: The matter of view loss has been addressed in Appendix 1 of this report. With respect to the provision of trees within the rear communal open space area on site, landscape plans indicate the provision of Dwarf Magnolia and Bradford Pear trees capable to growing to a maximum height of 6m - 8m. Whilst the aforementioned trees would be taller than the existing single storey garage structures in the rear of this site and result in a reduction in views for the units referred to above, it is reiterated that the subject site is zoned R4 High Density Residential, is subject to a 14.5m height limit and is not yet developed to its full potential.

Adverse acoustic impacts from rooftop communal open space

Comment: As previously discussed within this report, the periphery of the proposed communal rooftop terrace comprises a raised 1.2m high masonry planter with a width of 1.5m proposed to be planted with Indian Hawthorn capable of growing to a maximum height of 1.2m. The aforementioned will assist in keeping users away from the edge of the space, thus ensuring separation and reducing potential for overlooking of neighbours. Should the proposal be supported, an appropriate plan of management could assist in ensuring that acoustic impacts to neighbouring properties from the use of the private and communal rooftop spaces does not arise.

Overshadowing impacts

Comment: The matter of overshadowing has been previously discussed within this report. The property at 28 Hercules Road will not be overshadowed by the development given the location of this site to the north west of the property.

A high brick wall located along the southern boundary of the proposed development will create an unnecessary obstruction to sight line views of traffic along The Grand Parade for all driving owners attempting to exit the driveway of No.112. Exiting into traffic on The Grand Parade already poses a challenge / The drawing of the front driveway is incorrect. It appears that the new building has encroached on the driveway of 112 The Grand Parade as the garden bed on the north side of the driveway is not shown and they have erected a wall.

Comment: As previously stated, the proposal can be conditioned to resolve the matters raised above by objectors.

Concerns regarding basement proposed on side boundaries with neighbouring properties

Comment: Standard conditions have been imposed on the draft Notice of Determination requiring the proponent to obtain a Construction Methodology Report to demonstrate the proposed construction methods (including any excavation; and reconfiguration of the built structures) will have no adverse impact on the surrounding property and infrastructure. The Report shall be submitted with the application for a Construction Certificate for the relevant stage of works and will ensure the structural integrity of adjoining properties.

Adverse streetscape and character impacts / Lack of architectural merit / Inappropriate rooftop structure resulting in 5th level on site / Design is not in keeping with existing buildings

Comment: The matters of context and neighbourhood character have been discussed previously within this report.

Non compliance with relevant SEPP, LEP and DCP provisions i.e. side and rear setbacks, building separation, minimum frontage, FSR, Height, solar access, fencing, visual privacy and the like

Comment: This report details both how the proposal has complied with and failed to comply with the numerical requirements of the relevant legislative requirements and whether non compliances are or are not considered to be reasonable in the circumstances of the case.

Excessive bulk and scale / Exceeds height and FSR standards / Overdevelopment of the site

Comment: Revised architectural plans have demonstrated compliance with the numerical provisions of

Clause 4.4 of the RLEP 2011 relating to FSR and the objectives which support them. The minor non-compliance with the maximum permitted building height provisions is discussed in depth above and recommended to be supported in this instance.

Proposal exceeds maximum 35% site coverage requirement of DCP 2011

Comment: A manual assessment of plans illustrates that the proposal comprises a building footprint of 33.7% (286sq/m) and complies with the provisions of the clause referred to by the objector.

Adverse traffic and carparking impacts on The Grand Parade / Existing difficulty finding on street parking in the area, this will be compounded by the development

Comment: The proposal provides adequate parking on site for proposed residential dwellings in accordance with the provisions of DCP 2011. Concern is however raised in relation to the location of the loading / unloading bay and potential traffic impact this may have upon The Grand Parade, as discussed earlier within this report. Revised architectural plans illustrate the loading/unloading bay has been located to the basement level, thereby, reducing any adverse traffic and carparking impacts on The Grand Parade.

Excessive number of garbage bins to be presented for collection to the street, this will take up the entire frontage of the site

Comment: Conditions of consent can be imposed requiring the provision of 1100 litre bins, in lieu of 240 litre bins, thus reducing the number of bins to be presented on the street on collection day.

Construction noise, dust and interference

Comment: Standard conditions of consent are imposed on the draft Notice of Determination requiring temporary noise, disturbance, dust and the like arising from the redevelopment of the site are kept to a minimum and controlled during construction.

Devaluation of property

Comment: No evidence to substantiate this claim has been submitted to Council. Further, devaluation is not a matter for consideration by S79C of the Environmental Planning and Assessment Act 1979 (as amended).

View Loss impacts to neighbouring properties

Comment: The matter of view loss has been addressed in detail within Appendix 1 of this report.

Parking obstructions by consumers of nearby restaurants

Comment: The above matter is beyond the scope of this application.

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

The proposal is considered under the heads of consideration of Section 79C of the *Environmental Planning and Assessment Act, 1979*, which requires amongst other things, an assessment against the provisions contained within the following:

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development and the considerations of the Apartment Design Guide;*
- *Rockdale Local Environmental Plan, 2011;* and
- *Rockdale Development Control Plan, 2011.*

The development generally complies with the relevant provisions contained within each of the above listed environmental planning instruments and applicable development control plan. The applicant has submitted a written Clause 4.6 submission to support the proposed variation to the maximum permissible height of building. As demonstrated within the assessment of the application, the proposal will allow the development of the site in accordance with its environmental capacity. The development is considered to be in the public interest and recommended for approval on this basis.

S94 Contribution towards provision or improvement of amenities or services

S94 contributions apply to the proposed development given the resultant increase in residential density on site. Should the proposal have been supported appropriate conditions of consent could be applied.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
External Finish Schedule, Drawing No. DA005, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Streetscape Elevation, Drawing No. DA006, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Site/Roof Plan, Drawing No. DA100, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Basement 2 Plan, Drawing No. DA101, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017

Basement 1 Plan, Drawing No. DA102, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Ground Floor Plan, Drawing No. DA103, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Level 1 Floor Plan, Drawing No. DA104, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Level 2 Floor Plan, Drawing No. DA105, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Level 3 Floor Plan, Drawing No. DA106, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Roof Plan, Drawing No. DA108, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Adaptable Units, Drawing No. DA109, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Driveway/Swept Path Plan, Drawing No. DA110, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
East and West Elevations, Drawing No. DA201, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
North Elevation (Right Side), Drawing No. DA202, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
South Elevation (Left Side), Drawing No. DA203, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Indicative Section 01, Drawing No. DA301, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Indicative Section 02, Drawing No. DA302, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Ramp Section and Ramp Details, Drawing No. DA303, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017
Typical Fence and Gate Details, Drawing No. DA704, Issue 6	Resolut Building Solutions	09.10.2017	13.10.2017

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 744994M_02 and dated Sunday 28 May 2017 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. Separate consent shall be sought for the Strata Title Subdivision of the approved development.
7. The approved communal rooftop terrace area shall not be enclosed at any future time without prior development consent.
8. 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.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
10. 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.
11. Parking spaces shall be allocated to residential apartments / non-residential units 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 and 2 bedroom apartments 1 space per apartment

3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments incorporating 1 car wash bay

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.

12. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used

only for the loading and unloading of goods, materials etc. not for any other purpose.

13. 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.
14. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
 - (i) permit stormwater to be retained 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.
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. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
18. Parking & Vehicular Access

The design and construction of the off-street car & bicycle parking facilities shall comply with the following requirements:

- Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.

Two (2) loading bays shall be provided at Basement Level 1 to accommodate an SRV.

The allocated SRV spaces shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2 and the swept path analysis for the vehicle entering the loading bay shall be provided using a recognised computer software package such as Autoturn, complying with Section B3 of AS/NZS2890.1:2004.

Note:

Any vehicular path of travel to or from loading bay for VAN shall have minimum headroom clearance of 2.3m.

19. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
20. The design of the absorption pit shall be in accordance with Rockdale Technical Specification – Stormwater Management.
 - a. The base of the absorption trench shall be a minimum of 0.5 metres above any rock level.
 - b. The base of the absorption trench shall be a minimum of 1.0 metre above any water table to allow for fluctuations in water levels unless a smaller figure can be justified. Where specific information indicates higher fluctuations than 1 m the base of the absorption pit is to be the higher of 1 m above the existing water table, or 0.5 m above the highest known water level.
 - c. In sandy areas the onsite absorption pit shall not be located within 2.0 metres of the side, or rear boundary, nor 2.5 metres from any existing building or structure. Absorption pits are permitted within 2.5 m of new buildings where special provisions are made in the footing design (typically piers) by the structural engineer. In non-sandy areas the building offset above is to be a minimum of 3m.
 - d. Basement garages shall not be permitted to drain to an absorption system that has no emergency overflow provision.
21. Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
22. Screening landscaping to an expected height of 2.5 - 3.5 m shall be provided in the following locations:
 - Northern boundary fence line, (not Ficus microcarpa)
 - Southern boundary fence line
 - Western boundary fence line, (not Ficus microcarpa)
23. A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.

24. 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.
25. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
26. 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.

27. NSW Water

A. General

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

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

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

(a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and

(b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and

(c) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

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

A5. Documentation (referred to as a 'report') comprising measurements, maps,

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

Prior to excavation

A6. The following shall be included in the initial report:

(a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.

(b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

(c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

(d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]

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

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

A9. Groundwater quality testing generally in accordance with Clause 8, shall be

undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

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

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

A12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.

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

During excavation

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

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

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

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

A18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation

action plan) shall not be compromised by the dewatering activity.

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

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

Following excavation

A21. Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:

(a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

(b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and

(c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

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

Prior to issue of the construction certificate

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

28. 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 \$6,372.35. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$18.00.
29. 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.

30. 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.
31. A Section 94 contribution of \$90,344.49 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 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 and may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
32. 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.
33. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
34. Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.
35. Prior to issue of any Construction Certificate:
- a) Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.
 - b) The approved plans must be submitted to Sydney Water's Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
- The Tap in™ online self-service replaces Sydney Water's Quick Check Agents, and is available at:
- <https://www.sydneywater.com.au/SW/plumbingbuildingdeveloping/building/Sydney-water-tap-in/index.htm>
36. 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.
37. Any sub-surface structure within the highest known groundwater [table / rock +](#)

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

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

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

Note:

a. All structures that are fully or significantly below ground shall be fully tanked to finished ground level.

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

c. Continuous monitoring of ground water levels may be required

38. Adjoining buildings founded on loose foundation materials

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

a) Implement all recommendations contained in the report prepared by Geo-environmental Engineering, Report ID: G16045BLS-R01F dated 18 May 2016.

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

c) Confirm the proposed construction methodology

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

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

e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction

Certificate is issued **for the relevant stage of works.**

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

39. Prior to the issue of the Construction Certificate, approval from the utility provider is required for the works the existing utility with the road reserve fronting boundary. You are required to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.

40. Vibration monitoring

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

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

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

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

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

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

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

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

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

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

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

41. 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

42. Traffic Signs and Convex Mirrors

The design of parking areas shall be in accordance with DCP Part 4 Sec 4.6 and Rockdale Technical Specification – Traffic, Parking and Access. Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.

Traffic signs and convex mirrors are to be designed and installed to manage vehicular movement in all basement car parks that provides safe vehicle access to the basements. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.

The proposed single lane basement ramps are to have convex mirrors and sign to provide priority for incoming vehicles.

A suitably qualified and experienced engineer shall design traffic management facilities within the site to the requirements of AS2890.1:2004 and relevant Austroads Guidelines. The facilities designed by the engineer shall include signs (including vehicular guide signs, regulatory signs and warning signs), line marking and pavement markers, and other controls such as passing bays, traffic islands, median or separator and convex mirror to ensure safe movement of vehicles within the site at all times

43. Stormwater Drainage

The low level driveways must be designed to prevent inflow of water from the road reserve – gutter flow. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.

44. Any part of the proposed building within 3m of the proposed 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.
45. A visitor car space with minimum 3.5m wide 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.
46. All basement surface runoff including car wash bay shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

47. 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:

a) DCP requires the provision of on-site retention. Detailed 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

b) 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 m³ per 100 m² of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.

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

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

e) The detailed plans are required to show the basement levels as tanked system. The design shall take into consideration of geotechnical recommendations.

To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls. The

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

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

f) Basement garages shall not be permitted to drain to an absorption system that has no emergency overflow provision.

Prior to commencement of works

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

48. 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.
49. 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.

50. 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.
51. 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.
52. 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.

53. 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.
54. 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.

55. 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.
56. 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.
57. 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.

58. 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.
59. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
60. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
 - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
 - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.

- iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
- v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

61. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

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

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

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

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

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

62. When soil conditions require it:

- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- ii. adequate provision shall be made for drainage.

63. 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.

64. 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.

65. 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.
66. 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.

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.

67. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
68. 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.
69. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
70. A by-law shall be registered and maintained for the life of the development, which requires that :
- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
 - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
 - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that

standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

71. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
72. 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.
73. 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.
74. 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.
75. 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.
76. 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".
77. 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.
78. The width of the two-way driveway shall be a maximum of 6.1 metres at the boundary.
79. Suitable vehicular bollards shall be provided within adaptable shared areas.
80. All off-street car spaces shall be provided in accordance with the submitted plan and shall be linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
81. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

82. The noise reduction measures specified in the noise report prepared by Acoustic Noise and Vibration Solutions P/L, Reference No. 2016-349 and dated 31 August 2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
83. 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.
84. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability Gutter Flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
85. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater retention facility to provide for the maintenance of the retention facility.
86. 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.
87. 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, bottom of the ramp and external stairs. 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.

Roads Act

88. Roads and Maritime Services (RMS)
 - (a) The driveway is to be 5.5m wide at the crossover on The Grande Parade and for at least 6 metres from the property boundary in accordance Australian Standards. Therefore the site/ground floor plans should be amended to show the proposed driveway being at least 5.5m in width at the crossover on The Grand Parade, and for 6 metres into the site. The maximum grade for the first 6 metres from property boundary shall be 1 in 20 (5%). This will allow vehicles to enter and exit the property simultaneous. Furthermore, this will reduce impact on the traffic movements on The

Grand Parade as vehicles don't have to be stationary and wait on The Grand Parade.

(b) The driveway should not be used as a loading zone and should be kept clear at all times for vehicles to pass by and manoeuvre on the driveway.

89. 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.

90. 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.

91. 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.

92. 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.

93. 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.

94. 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. *Dial Before You Dig*

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

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005

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

- e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.

- f. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority’s guideline - "Lead Alert - Painting Your Home".
- h. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- i. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

**APPENDIX B – CLAUSE 4.6 OF ROCKDALE LEP 2011: EXCEPTIONS
TO DEVELOPMENT STANDARDS –HEIGHT OF BUILDING
VARIATION**

FOR A PROPOSED RESIDENTIAL FLAT BUILDING

AT

109 THE GRAND PARADE BRIGHTON

**CLAUSE 4.3(2) OF ROCKDALE LOCAL ENVIRONMENTAL PLAN 2011 –
MAXIMUM BUILDING HEIGHT**

1. Introduction

This written Clause 4.6 variation request accompanies a Development Application (DA) submitted to Rockdale City Council for a proposed residential flat building. The subject site is legally described as SP 1727 and is known as No 109 The Grand Parade Brighton.

Approval is sought for the following:-

- Demolition of the existing dwellings and associated structures on the site; and
- Construction of a four (4) storey residential flat building with basement parking comprising the following:-
 - Basement levels – 20 car parking spaces (including 3 disabled spaces) comprising 17 residential spaces, 3 visitor parking spaces with 1 as a car wash bay, motorcycle parking, bicycle parking, storage areas and lift access are proposed across two (2) levels of basement (basement 1 and basement 2);
 - Ground floor – comprising one x 3 bedroom, one x 2 bedroom and one x 1 bedroom units and their associated terrace areas as well as a bin storage area and ramp in the front area of the site;
 - Level 1 - comprising one x 3 bedroom, one x 2 bedroom and one x 1 bedroom units and their associated terrace areas;
 - Level 2 - comprising one x 3 bedroom, one x 2 bedroom and one x 1 bedroom units and their associated terrace areas; and
 - Level 3 - comprising two x 3 bedroom, units and their associated terrace areas.

2. Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the *Rockdale Local Environmental Plan 2011* (“RLEP 2011”) aims to provide an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances (Clause 4.6(1)).

Clause 4.6 Exceptions to development standards states:-

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note.** When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition, R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,
 - (cb) clause 4.3A.

Development consent may, subject to Clause 4.6(2), be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. Clauses 4.6(6) and (8) do not specifically exclude the development standard at Clause 4.3(2) of the RLEP 2011. Accordingly, this development standard can be varied to allow the proposal. Clause 4.6(7) and (8) do not require any further consideration in this variation.

A written request from the applicant that seeks to justify the contravention of the development standard is required before development consent can be granted, demonstrating the following (Cl 4.6((3)):-

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

These matters are considered in Section 7 of this submission.

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), the proposed development will be in the public interest (proposal is consistent with the zone and development standard objectives) and the concurrence of the Secretary has been obtained (Cl 4.6(4)).

These matters are considered in Section 7 below.

The 'five part test'

The long-standing 5 part test was set out in *Winten Property v North Sydney* (2001) 130 LGERA 79 for SEPP 1 objections (the relevant requirement at the time) as:

1. *Is the planning control in question a development standard?*
2. *If so, what is the underlying object or purpose of the standard?*
3. *Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979?*
4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (A related question is: would a development which complies with the standard be unreasonable or unnecessary?)*
5. *Is the objection well founded?*

Webbe v Pittwater Council [2007] NSW LEC 827 shed light on this test for the assessment of a SEPP 1 objection with Chief Justice Preston in his reconsideration, setting out a new 5 part test and rephrased the assessment process as follows:

1. *The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and*
3. *It is also important to consider:*
 - a. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Preston CJ then stated that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

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

In *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90, and the subsequent appeal against the Commissioner's decision, it was established that the key elements which are required to be addressed in any Clause 4.6 written request, in order to satisfy the tests contained in clause 4.6, are:

- (a) *Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
- (b) *Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?*
- (c) *Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? – is it consistent with the objectives of the development standard and the objectives of the particular zone?*

The Commissioner found that consistency with the objectives is required elsewhere (by Clause 4.6(4)(a)(ii)) and accordingly, could not be relied upon to satisfy the test in clause 4.6(3)(a). The Commissioner found that additional considerations are required in order to establish that compliance would be unreasonable or unnecessary.

The environmental planning grounds relied upon to justify the contravention of the standard must be “*particular to the proposed development on the site*”. That is, the environmental planning grounds relied upon cannot be benefits which apply to any development of the site or surrounding sites which would provide the same outcome. In the Commissioner's view, environmental planning grounds which were not particular to a site were not sufficient to justify the contravention of the standard.

Four2Five Pty Limited has established that although the first test in *Webbe v Pittwater Council* [2007] NSWLEC 827 remains a relevant consideration, it can no longer be the only basis upon which an applicant submits that compliance is unreasonable or unnecessary. Something additional needs to be established. The Court of Appeal decision has confirmed that the other *Webbe* tests (2 to 5) may still be applied and relied upon.

These matters are considered in Section 7 below.

3. The Development Standard to be varied

Clause 4.3(2) of the RLEP 2011 states the following:-

“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”.

The maximum height of buildings for the subject site pursuant to the Height of Buildings Map is 14.5 metres as illustrated in **Figure 1**.

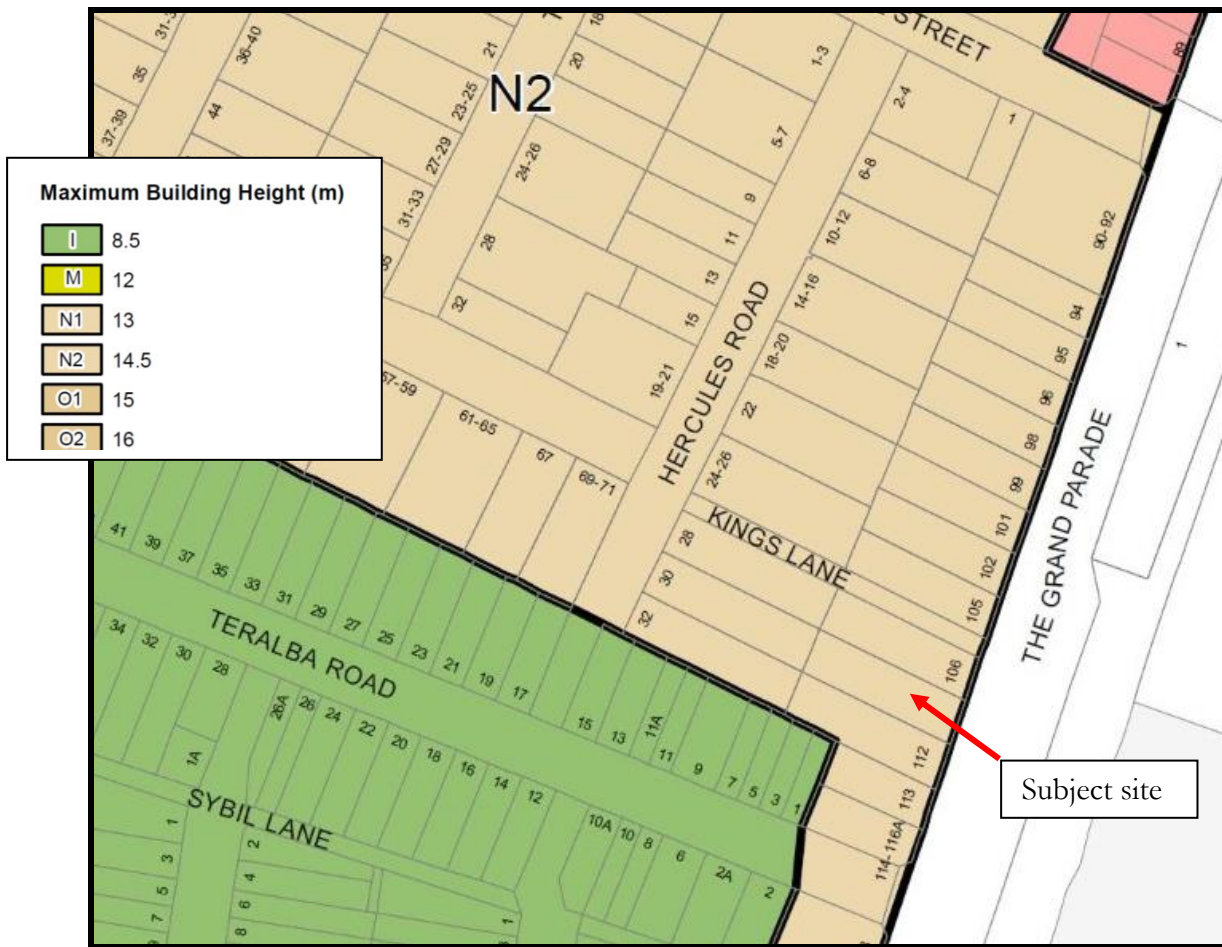


FIGURE 1: HEIGHT OF BUILDINGS MAP (SOURCE: WWW.LEGISLATION.NSW.GOV.AU)

4. Extent of Variation to the Development Standard

The proposed development involves a maximum height of 14.8 metres (highest point of roof is RL 21.3 with a ground level at RL 6.5) on a site with a maximum height limit of 14.5 metres. Therefore, the proposal exceeds the maximum building height development standard by 0.3 metres representing a 2% variation to the development standard contained in Clause 4.3(2) of the RLEP 2011. This variation is outlined in Table 2 of the Statement of Environmental Effects (“SEE”).

5. Objectives of the Development Standard

The objectives of the Height of Buildings development standard, pursuant to Clause 4.3(1) of the RLEP 2011, state:-

- (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.

6. Objectives of the Zone

The objectives of the R4 High Density Residential zone pursuant to Clause 2.3 of the RLEP 2011 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.*

7. Assessment

Pursuant to Clause 4.6 and following the *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90 decision outlined above, the following matters are required to be considered in this assessment:-

- (a) Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- (b) Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?
- (c) Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest. – is it consistent with the objectives of the standard and zone as set out above.

These matters are considered below.

7.1 Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

It is considered that the development standard is unreasonable and unnecessary in the circumstances of this case as a better planning outcome is provided by varying the standard in this instance.

The non-complying height of the proposed building mainly results from the proposed lift shaft and staircase to the communal roof terrace on the rooftop of the building which will result in an increased amenity for residents. This area, with water views and landscaping, allows for a better planning outcome on the site than if communal open space was only provided at ground level.

The proposed non-compliance is also considered to have minimal impacts on the amenity of adjoining properties given there are no unreasonable impacts on views, privacy or overshadowing arising from the additional height. The proposal is largely orientated to the street and rear communal open space and away from the adjoining properties, reducing overlooking opportunities, while the shadow cast arises mainly from the building itself and not the additional height given this area comprises a small lift shaft and staircase roof. This increased shadow would be minimal.

The proposal will have minimal impact on the streetscape given any potential visual impact arising from the proposal and its additional height above the standard is minimised by, among other things, the proposed building articulation and architectural detailing proposed for the built form on the site, which is provided within the additional height. The additional building height

within the built form allows it to be broken up to reduce bulk and scale over the height limit. This assists in reducing the potential visual impact of the proposal when viewed from adjoining properties and the street. The elaborate roof structure, which also adds to the non-complying building height non-compliance, provides the building with a defined ‘top’ and provides visual interest from the street and adjoining properties. The design of the development is illustrated in **Figure 2**.



FIGURE 2: PROPOSED DEVELOPMENT

(Source: Resolut Building Solutions, November 2017)

The proposal, with the additional height, is consistent with the desired future character of the area and is consistent with other buildings in the vicinity including buildings at 94, 117 and 122 The Grand Parade Brighton as illustrated in **Figure 3**. Requiring compliance with this development standard would therefore prevent a building that does not adversely affect the amenity of the existing adjoining residential development from being achieved on the subject site.

The additional building height is also considered to result in no adverse environmental impact. It is also considered that the additional building height of does not raise any matters of state or regional planning significance.

The proposal is considered to be a better planning outcome on the site as the proposed development allows for the provision of a variety of unit sizes within a well-designed development which generally complies with the requirements of the ADG. The proposed variation will ensure a more efficient use of the subject site. The units will achieve a high standard of accommodation given it generally accords with minimum area requirements, achieves sufficient ventilation and solar access and provides private open space areas for the enjoyment of future occupants.

The proposal seeks to increase the available floor space of the built form which is located in a bay side, high amenity, convenient location close to various uses and bus services which is a preferred planning outcome given greater housing choice is provided. Overall the variation with the building height standard allows for a better planning outcome while it minimises the impacts to

the surrounding properties and ensures an appropriate bulk and scale transition along The Grand Parade.



Figure 3: Developments at No 94, 122-123 & 117-118 along The Grand Parade

Accordingly, it is considered that the development standard is unreasonable and unnecessary in the circumstances of this case for the reasons outlined above.

7.2 Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?

The subject site largely remains the only undeveloped or under-developed site in the street. The vast majority of the street consists of three to four storey residential flat buildings, with the exception of the subject site which remains as a small two storey multi-unit building.

In this respect, the subject site is, in effect, an isolated site. The adjoining sites comprise approximately 10 units (No 106) and 6 units (No 112) and are unlikely to be developed over more than their current area. By comparison, the subject site contains only four (4) units. Given the maximum building height and FSR controls allow for a much larger building than what is currently on the site, this results in the current use of the site not being the highest and best use of the site.

This isolated nature of the subject site results in sufficient environmental planning grounds being evident on the site to allow an exceedence of the building height development standard which would better achieve the objects of the *Environmental Planning and Assessment Act 1979* ("EP&A Act), including the orderly and economic development of land. These objects pursuant to Section 5 of the EP&A Act include:-

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
 - (iii) the protection, provision and co-ordination of communication and utility services,
 - (iv) the provision of land for public purposes,
 - (v) the provision and co-ordination of community services and facilities, and
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
 - (vii) ecologically sustainable development, and
 - (viii) the provision and maintenance of affordable housing, and

The proposal is considered to be consistent with the objects of the EP&A Act, in particular Section 5(a)(ii), despite this non-compliance, as the proposed development will allow for the promotion and co-ordination of the orderly and economic use and development of land by allowing additional housing opportunities on an isolated site for residential development. These objects would not be obtained if strict compliance with this development standard were required given the proposal would not be able to offer the level of communal open space on the site, the variety of unit sizes and levels of accessibility without the additional building height.

It is therefore considered that compliance with the maximum building height development standard would be inconsistent with the aims of the Policy, in that requiring compliance with this development standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act as outlined above.

This existing site constraint, being virtually the last remaining development site in the street, provides an opportunity unique to this site, to provide for a 11 unit development which generally complies with the minimum unit sizes under the ADG and provides for a high level of amenity with a variety of unit sizes. This unique site attribute represents sufficient environmental planning grounds to justify varying this development standard in this instance

given such a variation would allow for additional housing opportunities in a well serviced location on an isolated site.

Following *Four2Five Pty Limited*, it is clear that this environmental planning ground, in effect being an isolated site, is particular to the proposed development on this site and does not apply to the development of any surrounding sites which would provide the same outcome. That is, this is a large site in the context of the locality and presents a unique opportunity to provide additional housing in area which is close to the services of the Brighton town centre and other local facilities in a development which is compatible with existing development in the street.

In the circumstances of this case, there are sufficient planning grounds to justify the maximum building height development standard variation sought.

7.3 Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? Is it consistent with the objectives of the standard and zone as set out above?

It is considered that the proposal is in the public interest given additional housing opportunities will be provided in close proximity to transport and services and within an accessible building. This will allow for the accommodation of a variety of households in terms of number of bedrooms as well as accessibility. The proposal, notwithstanding the non-compliance with the maximum building height development standard, is consistent with the objectives of the development standard and the zone (outlined below).

This residential development provides for a high level of amenity and makes efficient use of the site area. The proposal results in an appropriate bulk and scale along The Grand Parade due to the design and location of other residential flat buildings of a similar size and scale. There is also a lack of amenity impacts which further demonstrates that the proposal and its associated building height are in the public interest. The proposal is generally consistent with the remainder of the planning controls and therefore is in the public interest.

The proposal is considered to be consistent with the objectives of the building height development standard as outlined above for the following reasons:-

- The proposal involves a building height which seeks to maximise the FSR on the site as well as being designed within the context set by other existing developments along The Grand Parade as illustrated in **Figure 3** (above). The proposal, with the additional height, is considered to be consistent with Objective (a) for building height;
- The proposal provides a high quality urban form with an appropriate level of articulation and architectural detailing achieved through the use of a variety of materials and the design of the development with changes in building alignment and use of building recesses. The proposal will maintain an appropriate visual relationship between new development and the existing character of the area due to the prevalence of three and four storey residential flat buildings in the street, the mix of development within the locality due to the proximity to the Brighton town Centre and the range of housing densities. In these ways, the proposal is consistent with Objective (b) for building height;
- The increased building height does not adversely affect the amenity or enjoyment of the adjoining residential properties. There will be limited overlooking opportunities, there will be some overshadowing but will be within the planning controls and there will be no view loss arising from the additional building height proposed on the

subject site. there will also be no significant overshadowing of the public domain. In these ways, the proposal is consistent with Objective (c) for building height; and

- The proposed building height will be compatible with other development in the area to the north and south along The Grand Parade (No 94, 122-123 & 117-118) and will allow for an appropriate transition along the streetscape to the adjoining four (4) storey residential flat building to the south (No 112 The Grand Parade) of the subject site. This is illustrated in **Figure 3**. In these ways, the proposal is consistent with Objective (d) for building height;

The proposal is considered to be consistent with the objectives of the R4 Zone as outlined above for the following reasons:-

- The proposal provides for the housing needs of the community in a high density environment.
- The proposal provides a variety of housing types in that there are one, two and three bedroom units proposed as well as an adaptable dwelling and accessibility throughout the proposed development. The provision of ground floor as well as upper level units allows for a variety of households to be accommodated including single person households through to families requiring ground floor with larger terrace areas.
- The proposal provides for landscaping opportunities which will assist in minimising runoff and providing an aesthetically pleasing development when viewed from the street and outdoor open space areas.

The proposal is therefore considered to be consistent with the objectives of the development standard for building height and the objectives of the zone as outlined above, despite the non-compliance, which is consistent with the first *Webbe* test.

8. Conclusion

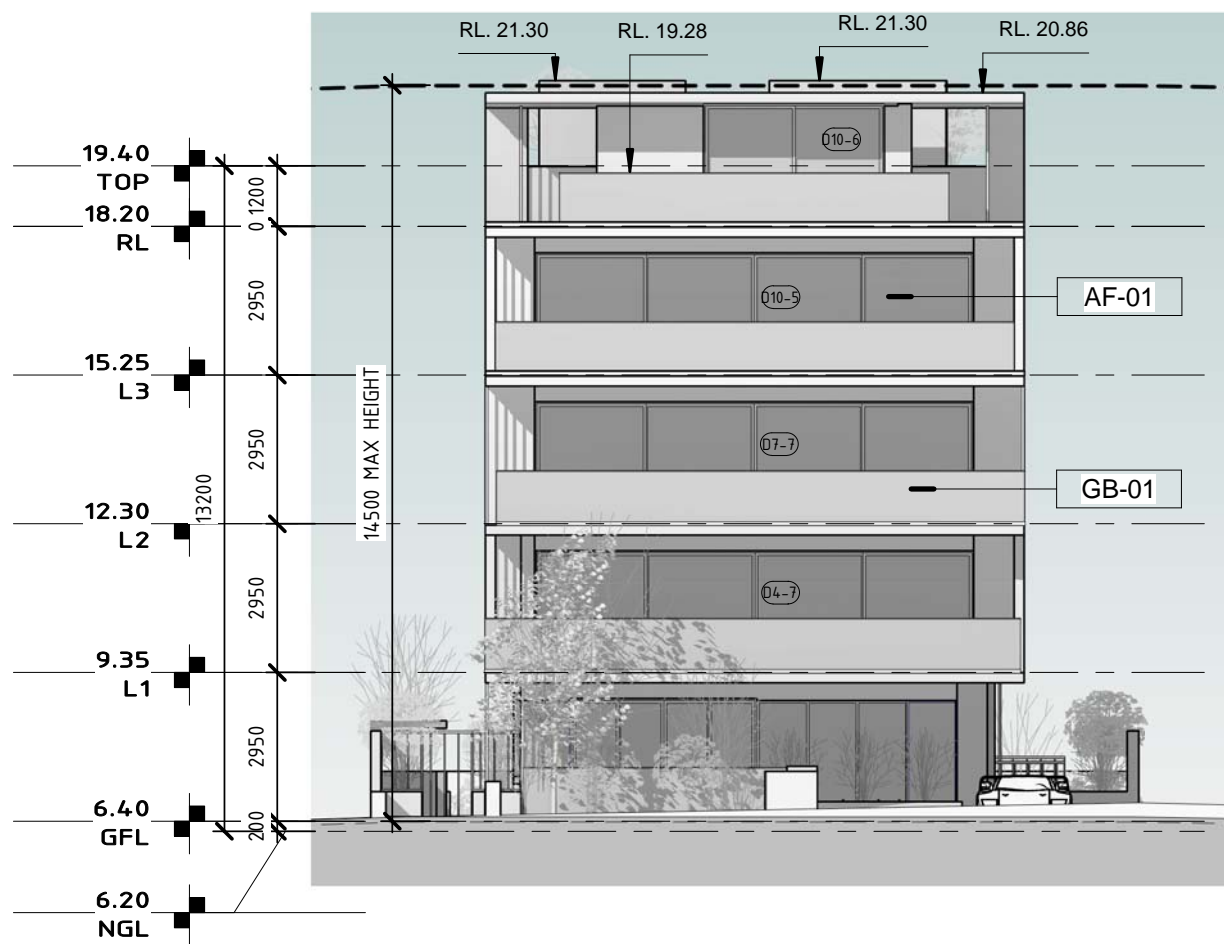
While the proposed development does not strictly comply with the maximum height development standard in Clause 4.3(2) of the Rockdale LEP 2011, it nevertheless satisfies the stated/underlying objectives of the development standard and the broader planning and zoning objectives.

The design and siting of the proposal minimises adverse impacts that may arise from the proposed additional building height of the proposal. The non-compliance in building height does not result in any significant or unreasonable amenity impacts to the neighbouring property or any significant adverse impact in relation to visual amenity. The proposal provides for an appropriate form of development, and will make a positive contribution to the visual amenity and character of the surrounding residential locality.

It is considered that this objection is well founded in that the aims of the Policy are better served by allowing the development standard to be varied given the resulting development achieves the objects of the Act. Furthermore, the proposal, notwithstanding its non-compliance with the maximum building height development standard, is consistent with the development standard objectives as well as the zone objectives.

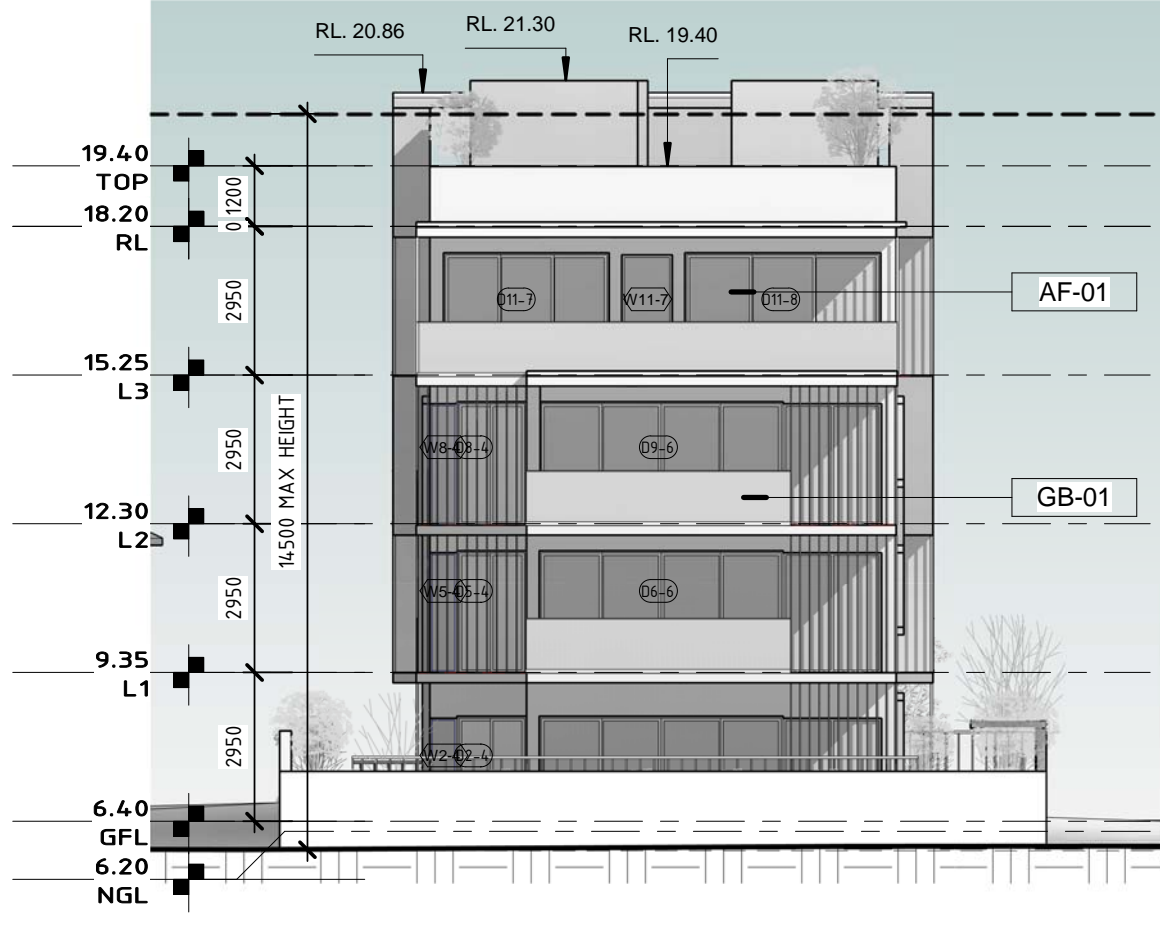
As outlined above, it is considered that compliance with the maximum building height development standard is unreasonable and unnecessary in the circumstances of this case and refusal of the development application as a result of the proposed non-compliance with the maximum building height development standard is not warranted.

KEYNOTE LEGEND	
Key Value	Keynote Text
AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
GB-01	FRAMELESS GLASS BALUSTRADE



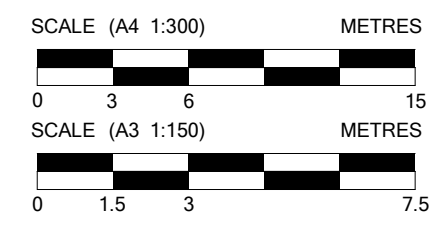
EAST ELEVATION (FRONT)

scale: 1 : 150



WEST ELEVATION (REAR)

scale: 1 : 150



29/11/2017 10:35:59 PM G:\Projects\Dropbox\005-ROWEL\34-109 The Grand Pde Brighton\2017\005\109 The Grand Pde Brighton-2017\1129-RS.rvt

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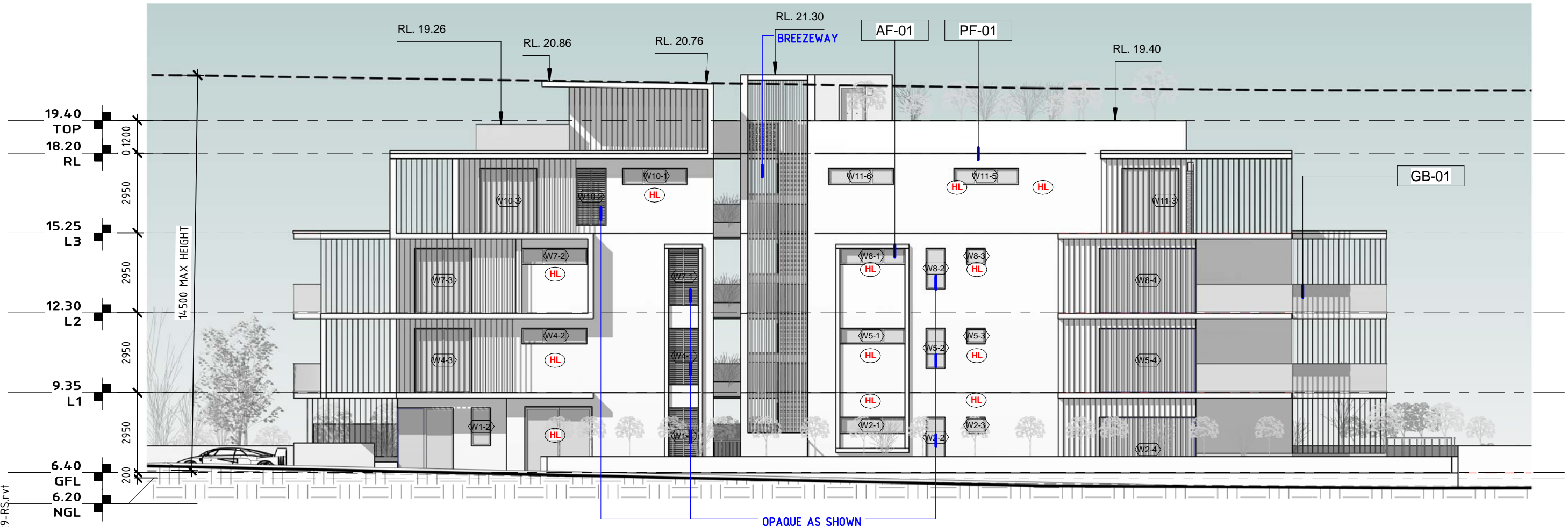
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3	ISSUED FOR DA	25.05.2017
4	ISSUED FOR DA	25.08.2017
5	ISSUED FOR DA	23.09.2017
6	ISSUED FOR DA	09.10.2017

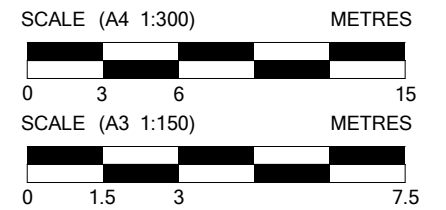
PROPOSED APARTMENT BUILDING
 109 The Grand Pde Brighton Le Sands

EAST & WEST ELEVATIONS		DA201
Project number	201510107	
Date	21.03.2017	
Drawn by	RS/KB/JD/EN	
Checked by	RS / CJH	Scale 1 : 150

KEYNOTE LEGEND	
Key Value	Keynote Text
AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
GB-01	FRAMELESS GLASS BALUSTRADE
PF-01	ALUMINIUM COMPOSITE PANEL CLADDING
HL	HIGHLIGHT WINDOW



NORTH ELEVATION (RIGHT SIDE)
scale: 1 : 150



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Nominated Architect:
C. Munayer
NSW No. 8256

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6	ISSUED FOR DA	09.10.2017

PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands


NORTH ELEVATION

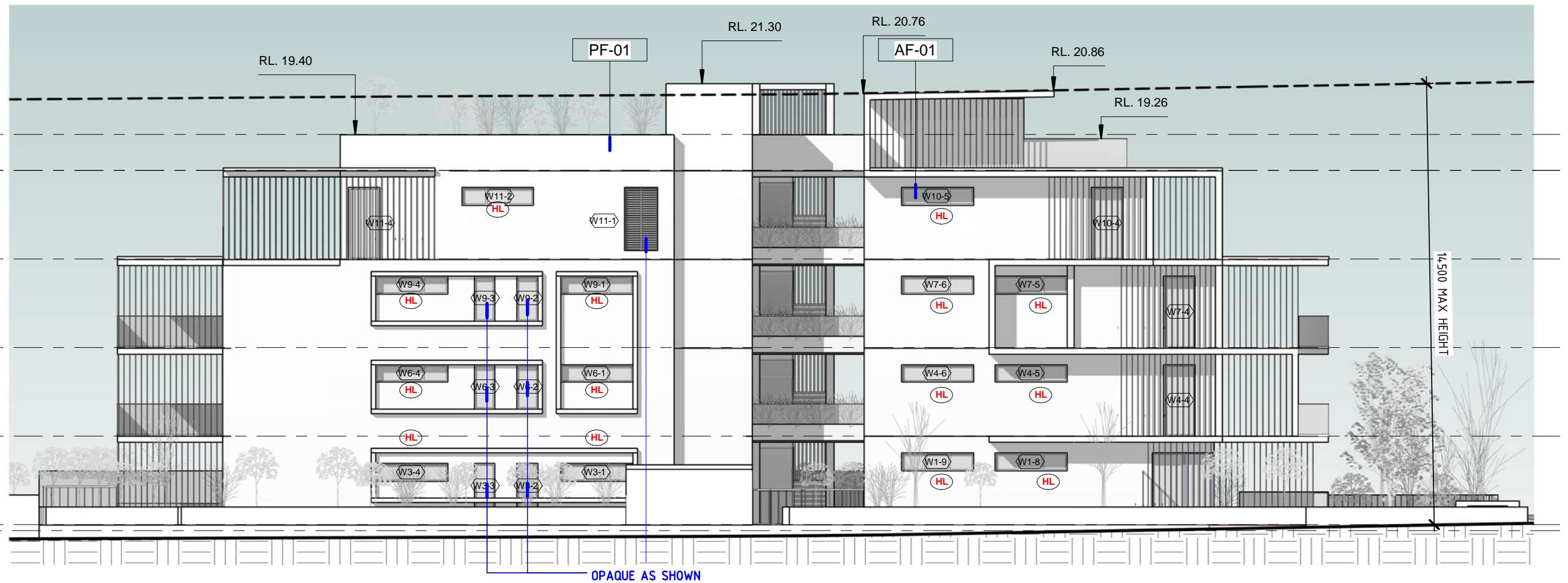
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Checked by	RS / CJH

DA202

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PF-01	ALUMINIUM COMPOSITE PANEL CLADDING
	HIGHLIGHT WINDOW



 **SOUTH ELEVATION (LEFT SIDE)**
scale: 1 : 150



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6	ISSUED FOR DA	09.10.2017

PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

SOUTH ELEVATION

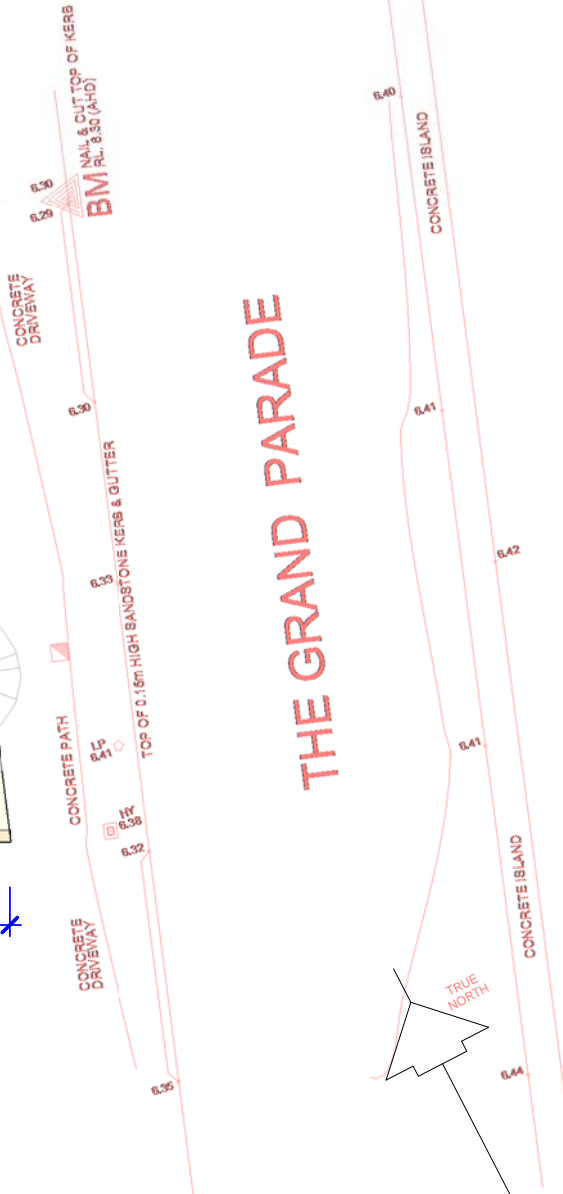
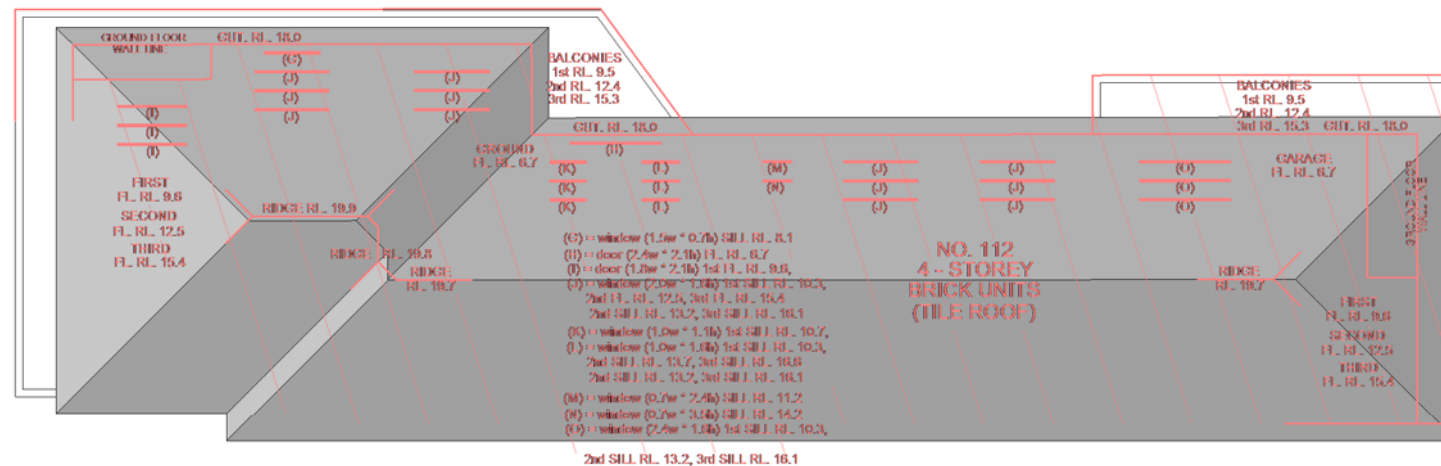
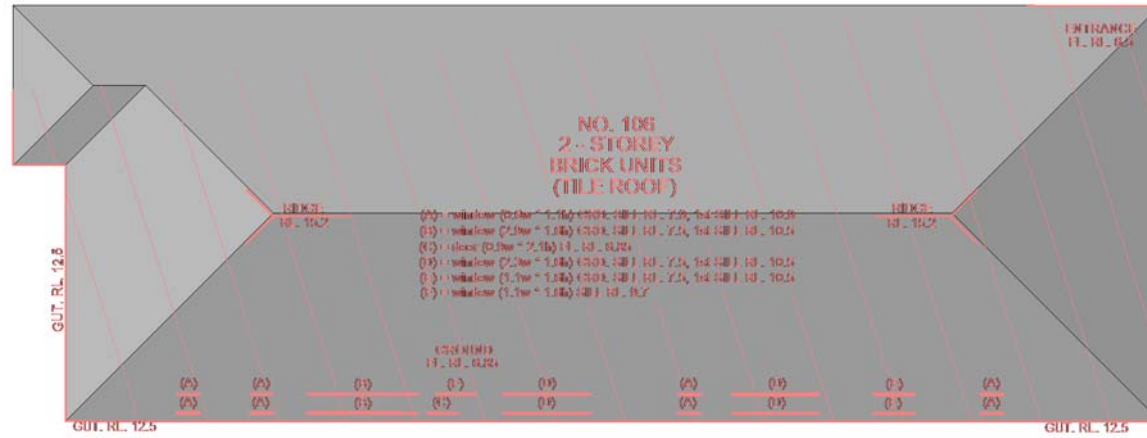
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DA203

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3000 SIDE SETBACK
3000 SIDE SETBACK



SITE/ROOF PLAN
scale: 1 : 200

SCALE (A4 1:400) METRES
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SCALE (A3 1:200) METRES
0 2 4 10

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PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

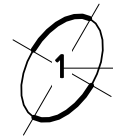
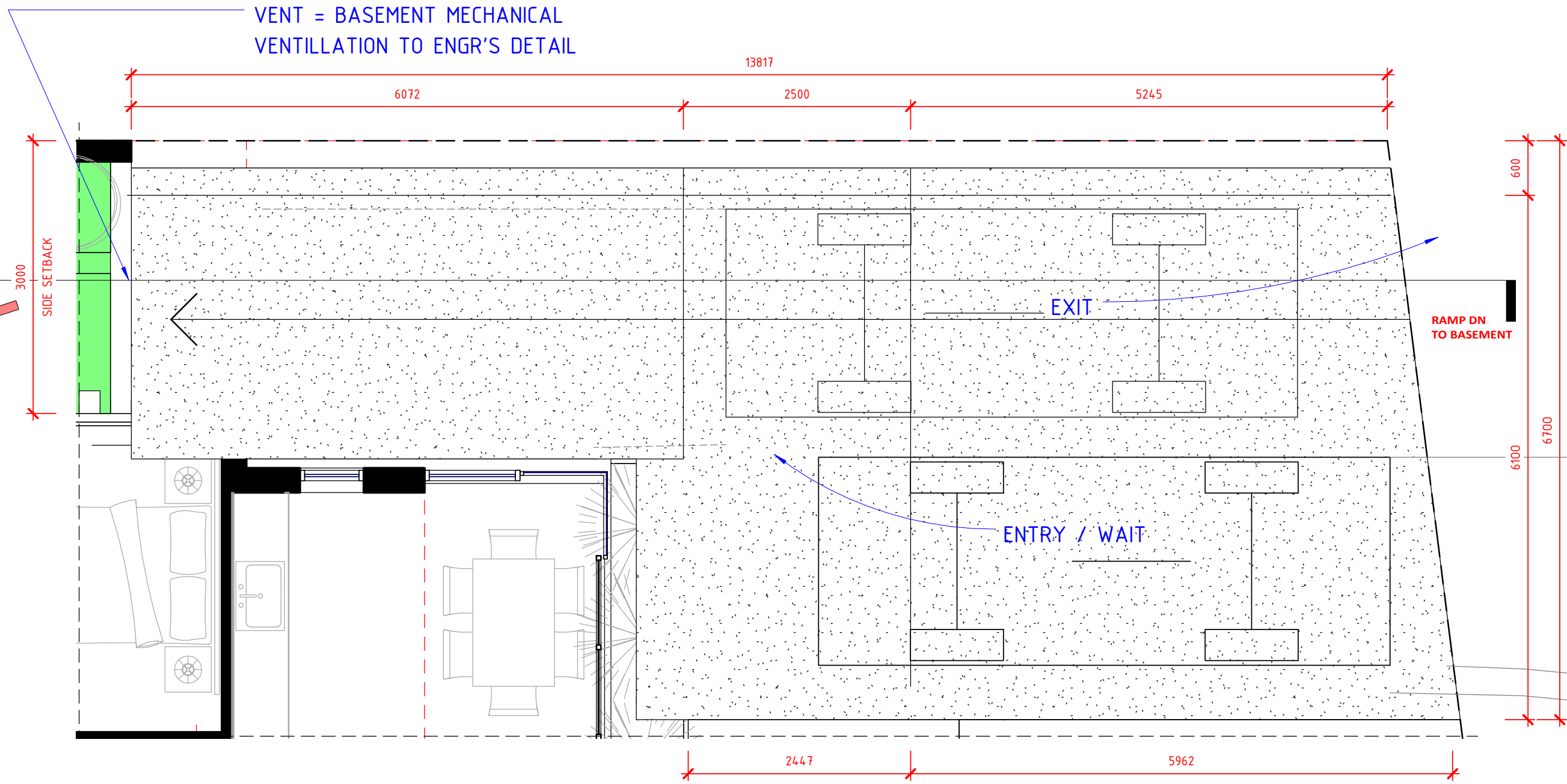
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Date	21.03.2017
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Checked by	RS / CJH

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DRIVEWAY/SWEPT PATH PLAN

scale: 1 : 50

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PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

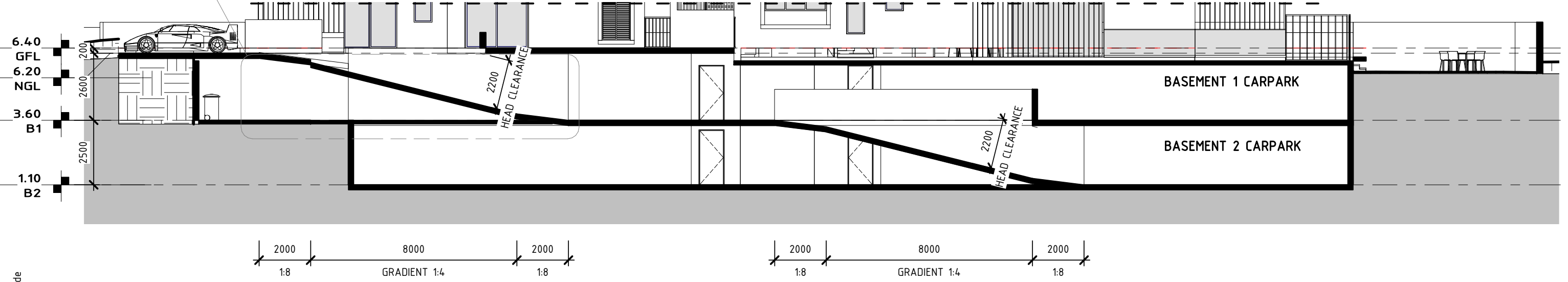
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Date	21.03.2017
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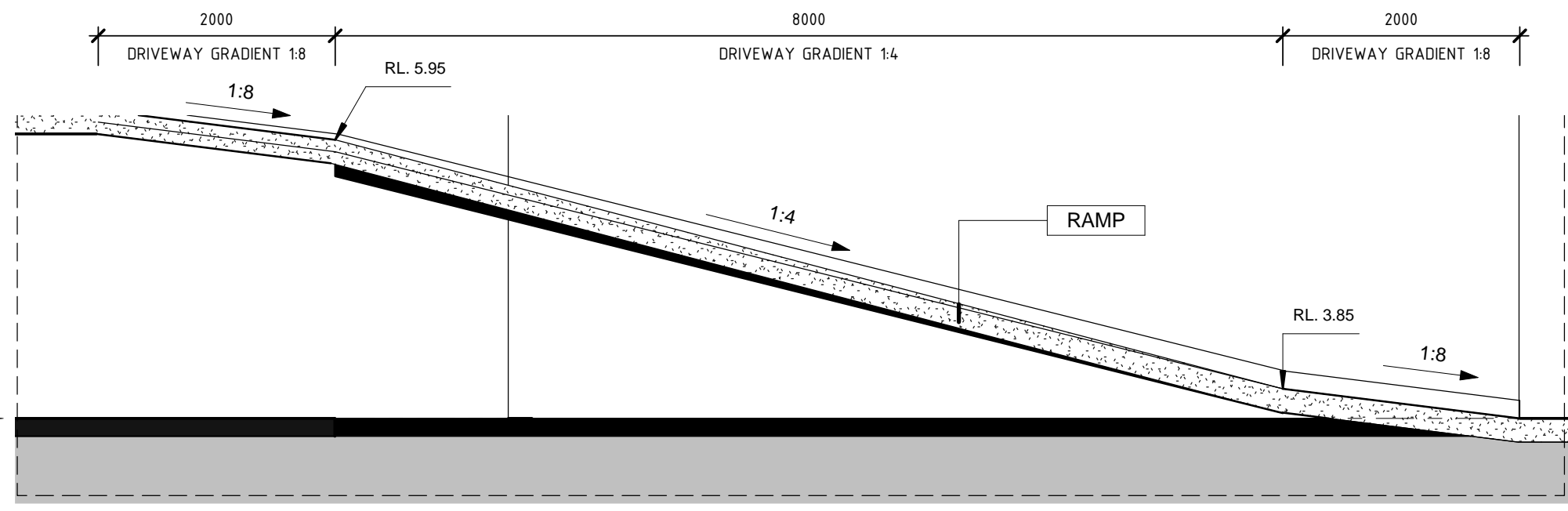
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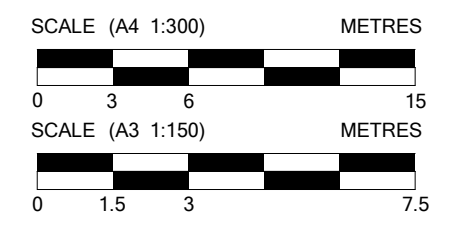


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TYP. RAMP DETAILS
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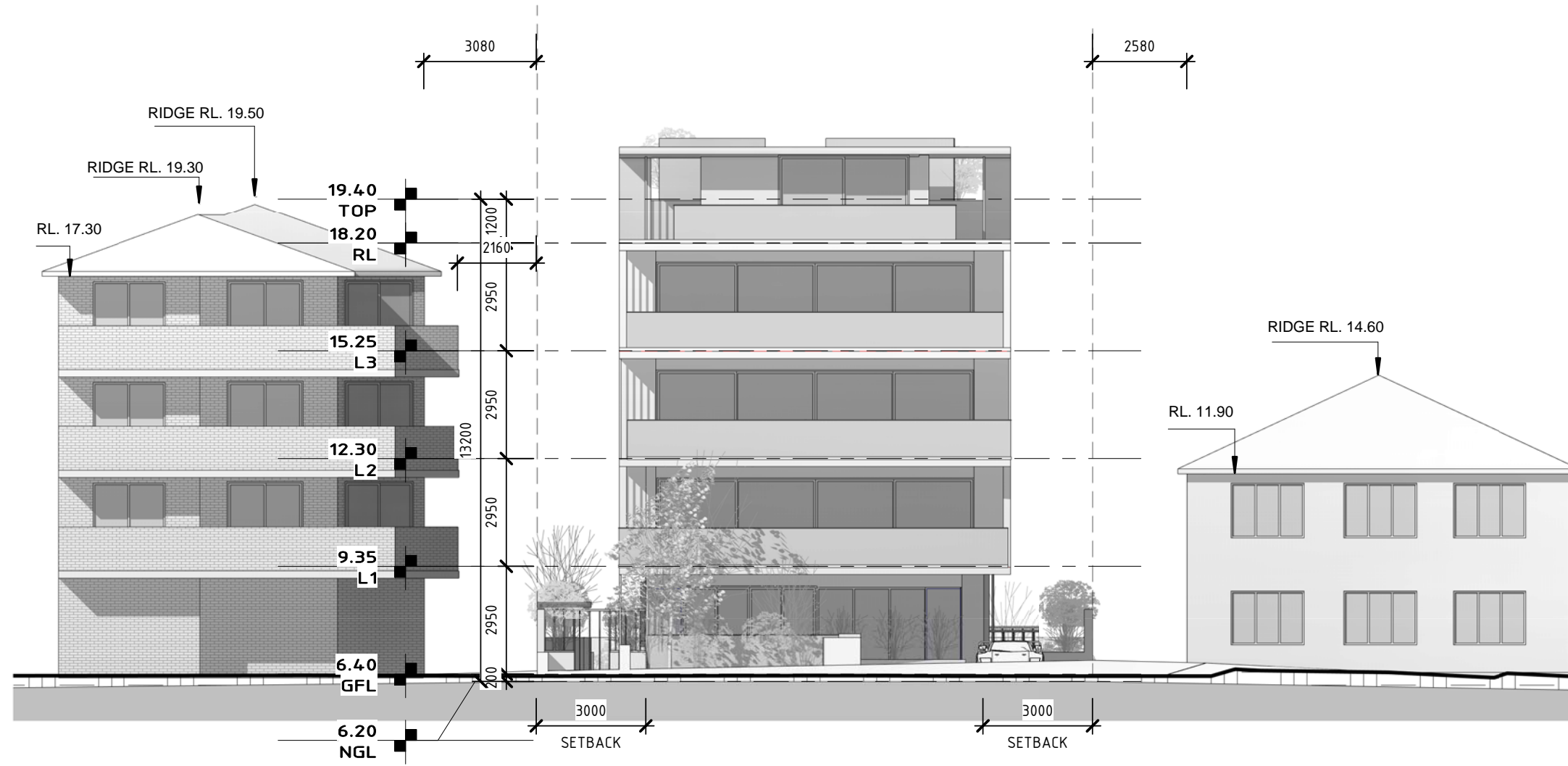
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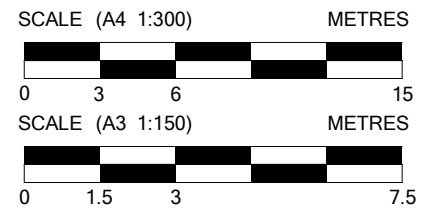
PROPOSED APARTMENT BUILDING
109 The Grand Pde Brighton Le Sands

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Scale	As indicated	

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STREETSCAPE ELEVATION
scale: 1 : 150



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PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

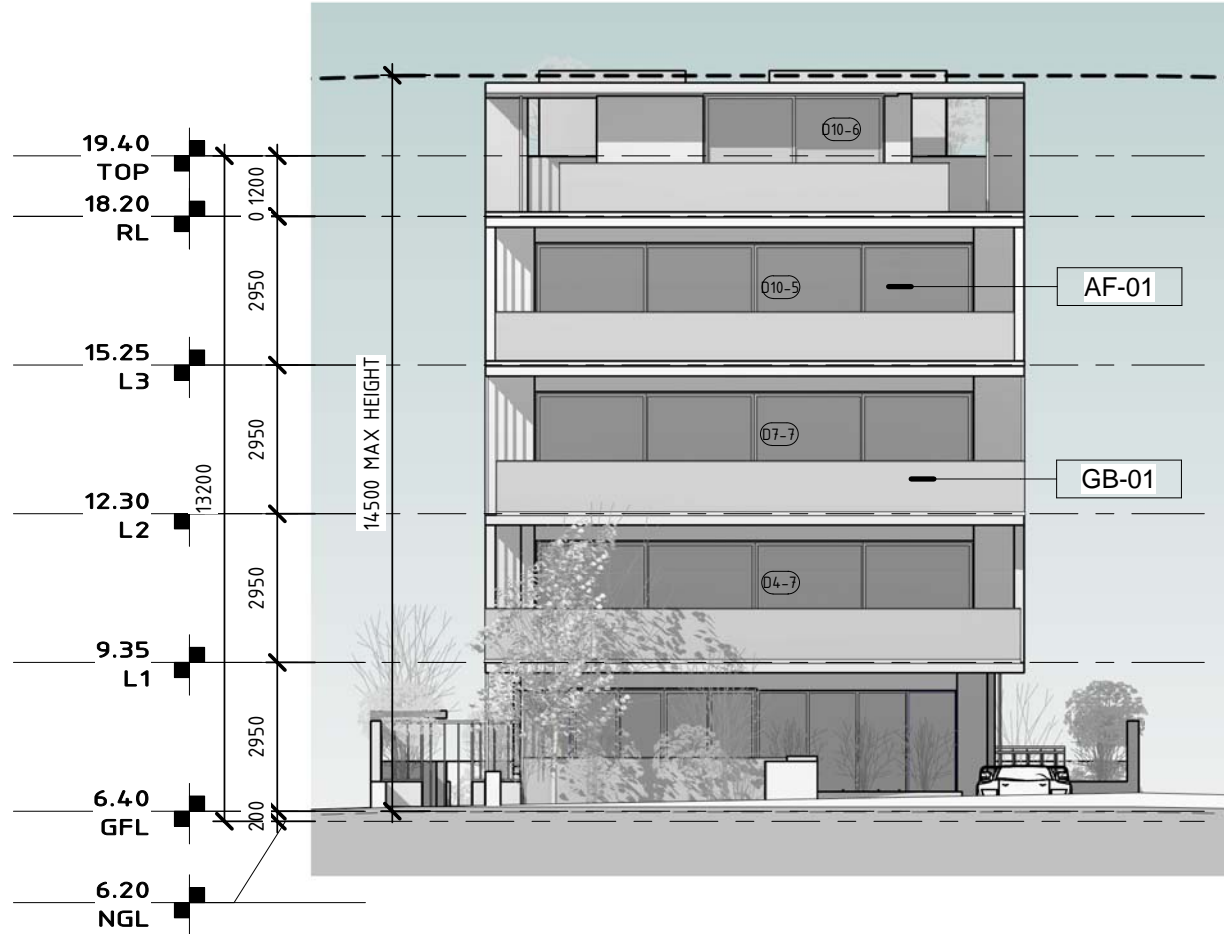
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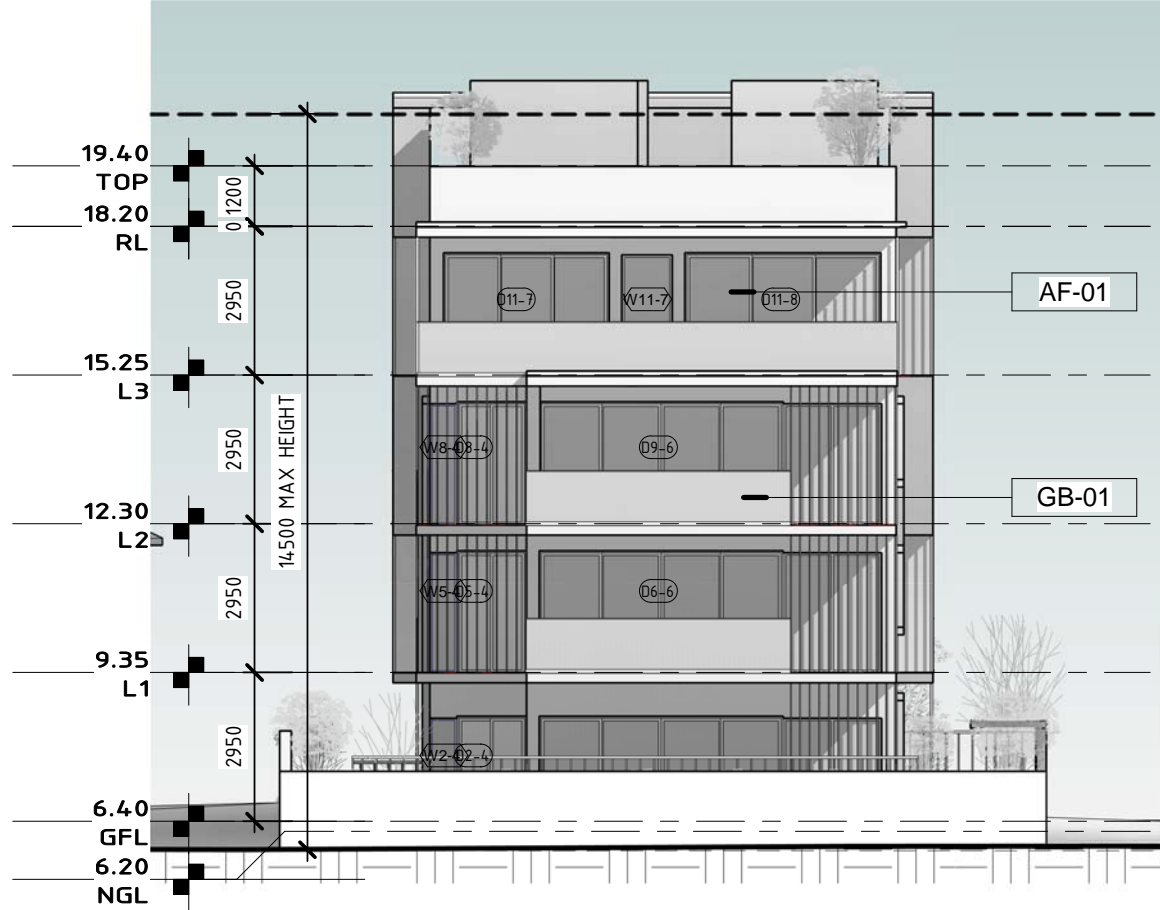
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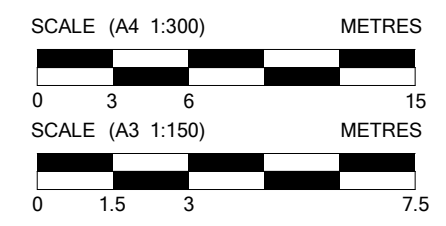
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Key Value	Keynote Text
AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
GB-01	FRAMELESS GLASS BALUSTRADE



1 EAST ELEVATION (FRONT)
scale: 1 : 150



2 WEST ELEVATION (REAR)
scale: 1 : 150



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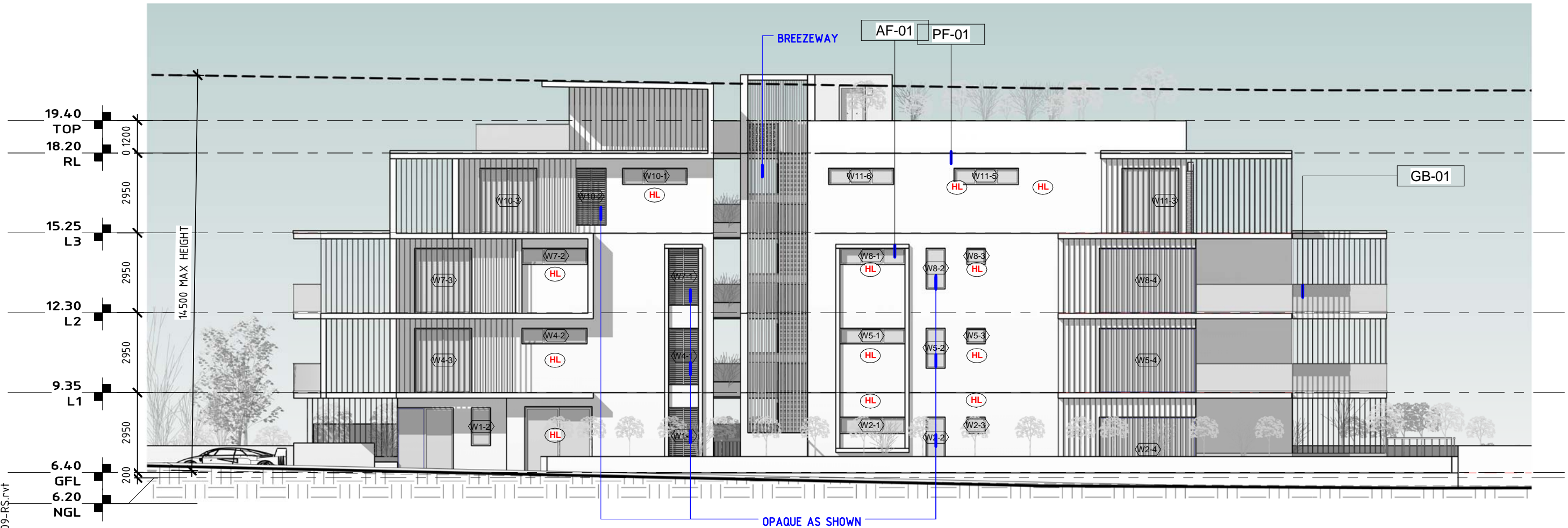
PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

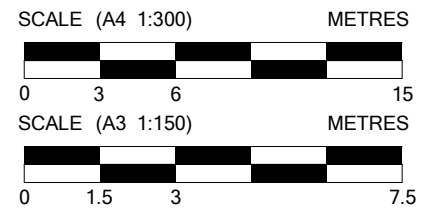
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KEYNOTE LEGEND	
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AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
GB-01	FRAMELESS GLASS BALUSTRADE
PF-01	ALUMINIUM COMPOSITE PANEL CLADDING
HL	HIGHLIGHT WINDOW

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NORTH ELEVATION (RIGHT SIDE)
scale: 1 : 150



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Nominated Architect:
C. Munayer
NSW No. 8256

NO	DESCRIPTION	DATE
1	ISSUED FOR DA	06.12.2016
2	ISSUED FOR DA	21.03.2017
3	ISSUED FOR DA	25.05.2017
4	ISSUED FOR DA	25.08.2017
5	ISSUED FOR DA	23.09.2017
6	ISSUED FOR DA	09.10.2017

PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

NORTH ELEVATION

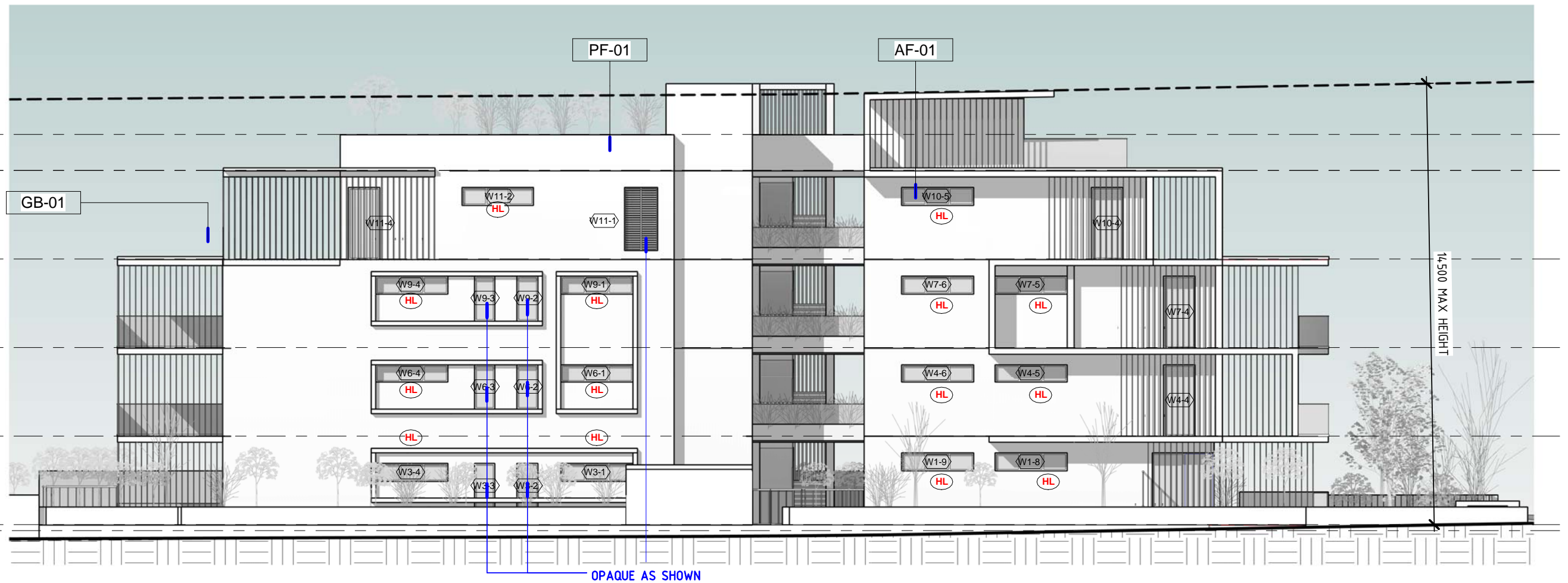
Project number	201510107
Date	21.03.2017
Drawn by	RS/KB/JD/EN
Checked by	RS / CJH

DA202

Scale 1 : 150

KEYNOTE LEGEND

Key Value	Keynote Text
AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
GB-01	FRAMELESS GLASS BALUSTRADE
PF-01	ALUMINIUM COMPOSITE PANEL CLADDING
HL	HIGHLIGHT WINDOW



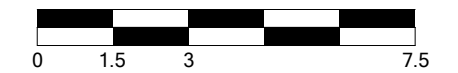
SOUTH ELEVATION (LEFT SIDE)

scale: 1 : 150

SCALE (A4 1:300) METRES



SCALE (A3 1:150) METRES



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Resolut Building Solutions
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Nominated Architect:
C. Munayer
 NSW No. 8256

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PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

SOUTH ELEVATION

Project number	201510107
Date	21.03.2017
Drawn by	RS/KB/JD/EN
Checked by	RS / CJH

DA203

Scale 1 : 150

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2 21st JUNE 10 AM
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3 21st JUNE 11 AM
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C. Munayer
 NSW No. 8256

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PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

ELEVATION SHADOW DIAGRAMS - WINTER

Project number	201510107
Date	21.03.2017
Drawn by	RS/KB/JD/EN
Checked by	RS / CJH

DA611

Scale



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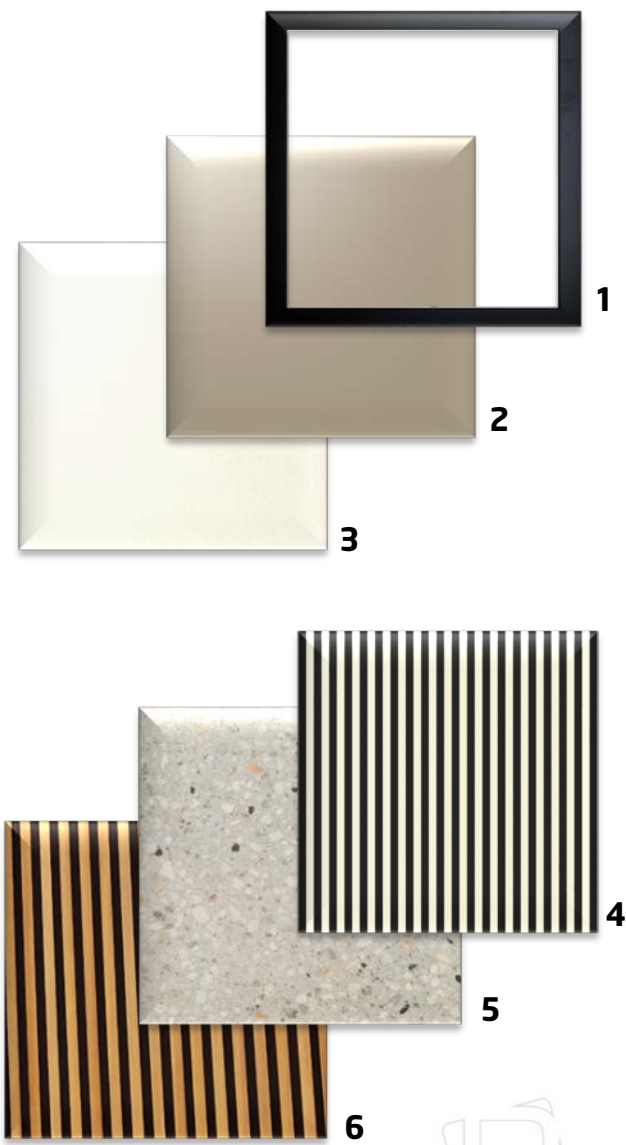
PROPOSED APARTMENT BUILDING

109 The Grand Pde Brighton Le Sands

ELEVATION SHADOW DIAGRAMS - WINTER		DA612
Project number	201510107	
Date	21.03.2017	
Drawn by	RS/KB/JD/EN	
Checked by	RS / CJH	
Scale		



109-110 The Grand Parade Brighton-Le-Sands



- 1. **Matt Black powder-coated aluminium - Window frames**
- 2. **Alucobond "Bronze Metallic 504" – edge detailing**
- 3. **Alucobond "White" – external main**
- 4. **Matt Black powder-coated aluminium– privacy screening and gates**
- 5. **Honed Concrete – pathways and driveway**
- 6. **Innowood "Dark Oak" – Breezeway/staircase screening**