
Bayside Planning Panel

27/02/2018

Item No	6.1
Application Type	Development Application
Application Number	DA-2017/174
Lodgement Date	14 November 2016
Property	238-242 Rocky Point Road, Ramsgate
Owner	Soleil Luxury Apartments Pty Ltd
Applicant	CMT Architects Australia Pty Ltd
Proposal	Construction of five (5) storey mixed use development comprising of three (3) commercial suites and eighteen (18) residential units, two (2) levels of basement carparking, associated landscaping and hydraulic works and demolition of existing structures
No. of Submissions	Four (4)
Cost of Development	\$7,805,000
Report by	Andrew Ison, Senior Development Assessment Officer

Officer Recommendation

- 1 That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.3 - Height of Building in the Rockdale LEP 2011, in accordance with Clause 4.6 of the LEP, submitted by the applicant;
 - 2 That Development Application DA-2017/174 for the construction of five (5) storey mixed use development comprising of three (3) commercial suites and eighteen (18) residential units, two (2) levels of basement car parking, associated landscaping and hydraulic works and demolition of existing structures at 238-242 Rocky Point Road, Ramsgate, be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the modifications to conditions of consent attached to this report; and
 - 3 That the objectors be advised of the Bayside Planning Panel's decision.
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Attachments

- 1 Assessment Report
- 2 Site Plan
- 3 Roof Plan
- 4 Streetscape Elevation
- 5 North Elevation
- 6 South Elevation
- 7 East Elevation
- 8 West Elevation
- 9 Section AA
- 10 Section A'A'
- 11 Clause 4.6 – Exception to Development Standard

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/174
Date of Receipt:	14 November 2016
Property:	238 Rocky Point Road, RAMSGATE (PT B DP 102921) 240 Rocky Point Road, RAMSGATE (PT B DP 102921) 242 Rocky Point Road, RAMSGATE (Lot C DP 102921)
Owner:	Soleil Luxury Apartments Pty Ltd
Applicant:	CMT Architects Australia Pty Ltd
Proposal:	238-242 Rocky Point Road RAMSGATE NSW 2217 - Construction of five (5) storey mixed use development comprising of three (3) commercial suites and eighteen (18) residential units, two (2) levels of basement carparking, associated landscaping and hydraulic works and demolition of existing structures
Recommendation:	Approved
No. of submissions:	Four (4)
Author:	Andrew Ison
Date of Report:	

Key Issues

The subject site is zoned B4 Mixed Use and R3 Medium Density Residential under the Rockdale Local Environmental Plan (LEP) 2011. The proposed mixed use development is contained fully within the B4 Mixed Use zone, and is permissible with consent. The R3 Medium Density area at the rear of the property contains a registered right of way running north-south from the nearest cross street Meaurants Lane, which will form the vehicular access into the proposed development.

The proposed development seeks to vary the Height of Building development standard in the LEP by up to 3.3m (20.6%), with respect to a minor portion of the uppermost storey, as well as the communal open space and lift over run. The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The proposal also has a variations to the provisions of the Rockdale Development Control Plan (DCP) 2011 with regard to unit mix. This matter has been discussed within this report and is worthy of support.

The property, along with adjoining neighbours to the west on Campbell Street is subject to a legal right of way along the rear portion of the site (fully contained within the R3 Medium Density Residential portion), to facilitate the future construction of a service lane from Meaurants Lane to the north to Dillon Street to the south.

The development application has been notified in accordance with the DCP on two occasions. A total of four (4) submissions were received in relation to the proposed development in the first round, and one (1) submission was received when it was re-notified in the second round, from one of the submitters in the first round.

The proposed development is recommended for approval subject to the Draft conditions of consent attached to this report.

Recommendation

1. That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.3 - Height of Building in the Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant;
2. That Development Application DA-2017/174 for the construction of five (5) storey mixed use development comprising of three (3) commercial suites and eighteen (18) residential units, two (2) levels of basement car parking, associated landscaping and hydraulic works and demolition of existing structures at 238-242 Rocky Point Road, Ramsgate be **APPROVED** pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications to conditions of consent attached to this report; and
3. That the objectors be advised of the Bayside Planning Panel's decision.

Background

History

The subject sites contain 3 commercial buildings, with the recent history being a series of applications relating to the commercial use of these buildings.

The subject Development Application was lodged with Council on 14 November 2016.

On 9 May 2017, a letter requesting additional information was sent to the applicant.

On 10 July 2017, amended plans and associated documentation was received by Council.

On 19 December 2017, a second letter requesting further additional information was sent to the applicant.

On 23 January 2018, amended plans and associated documentation was received by Council.

On 12 February 2018, further amended plans were received by Council.

Proposal

DA-2017/174 seeks development consent for the following:

- Demolition of the three commercial tenancies and associated structures currently on these three sites
- Excavation of the site for a two level basement, containing parking for 26 vehicles, loading area,

car washing area, spaces for bicycles and motorbikes, and storage;

- Construction of a five (5) storey mixed use development, containing three commercial tenancies on the ground floor ranging from 48 square metres to 57 square metres and 18 residential units (1 x studio, 3 x 1 bedroom, 13 x 2 bedrooms and 1 x 3 bedrooms);
- Communal open space area on the roof top area;
- Associated landscaping; and
- Consolidation of the two sites into the one title.



Figure 1: Photo Montage of the proposed development, provided by the applicant

Site location and context

The subject sites are located at 238-240 and 242 Rocky Point Road, Ramsgate (Lots B and C in DP 102921). The proposed development site has a combined total frontage of 18.29 metres and a combined total site area of 799.1 square metres. The subject sites currently contain commercial buildings (all of which are currently occupied by businesses), and associated structures. The sites have a gentle cross fall from Rocky Point Road to the rear. The subject site is located within the Ramsgate town centre, on the eastern side of Rocky Point Road and to the north of Ramsgate Road. The subject site is surrounded by a number of land uses, with a similar type mixed use development neighbouring the site to the north, single storey commercial buildings to the south, and low density residential to the east on Meaurants Lane and Campbell Street, and to the west of the site on Rocky Point Road, with a church also adjacent to the site to the west.



Figure 2: Aerial showing subject sites, marked in red (Source: Bayside IntraMaps)



Figure 3: Site photo subject sites, marked in red (taken 29 November 2017)

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental*

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:

Greater Metropolitan REP No. 2 – Georges River Catchment

The proposal is consistent with Council's requirements for the disposal of stormwater in the catchment. Therefore, it is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies. The proposal is consistent with the aims and objectives of the Georges River Catchment Deemed (SEPP).

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

BASIX Certificate No.773505M accompanies this application. The Certificate makes a number of energy and resource commitments. These commitments have been shown on the DA plans, and satisfy the requirements of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

The following sections of this SEPP are required to be considered as part of this application:

Clause 45 – Works within the vicinity of electricity infrastructure

The proposed development as the development proposes works within the vicinity of electricity infrastructure, that being overhead powerlines on Rocky Point Road. 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 and Telstra. Ausgrid have stated no objections to the proposed development, subject to the imposition of conditions. Telstra have not provided any comments, and accordingly it is deemed that they have no objections to this proposal.

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

Clause 101 - Development with frontage to classified road

The proposed development is located on land with a frontage Rocky Point Road, which is defined as a classified road as prescribed in the *Schedule of Classified Roads and Unclassified Regional Roads* as prepared by the Roads and Maritime Services (RMS). In this regard, this Clause must be considered before consent can be granted.

The consent authority (i.e. Bayside Council) is satisfied that is satisfied that vehicular access into the development will be provided via a legal right of way at the rear of the subject sites, running south from Meaurants Lane, that was created when the land that is subject to this application was subdivided and registered in 1951.

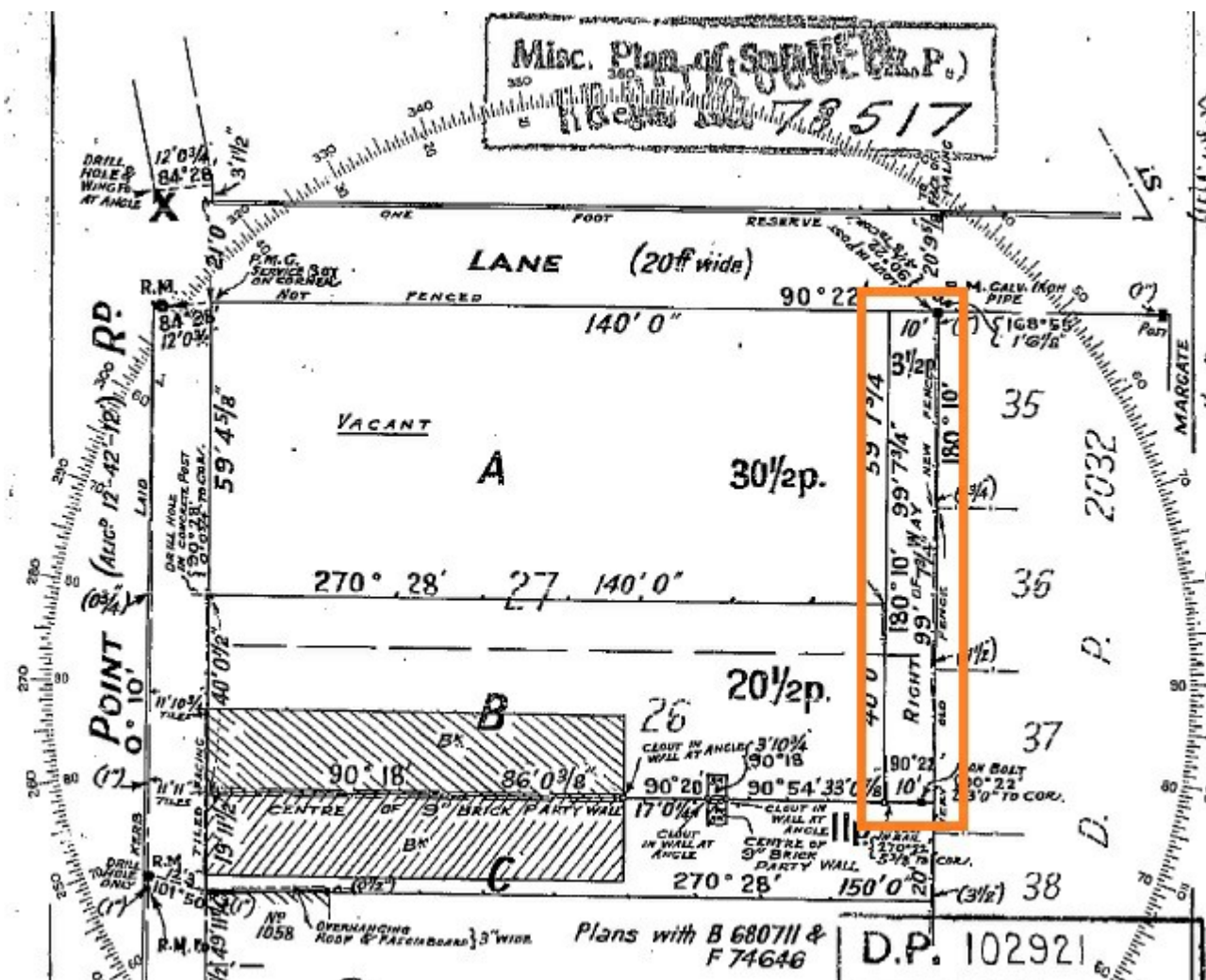


Figure 4: Extract from Deposited Plan 102921 showing right of carriageway at the rear of the site (highlighted in orange). (Source: NSW Land Registry Services)

This application was referred to the RMS, who have not provided any comments, and accordingly it is deemed that they have no objections to this proposal.

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

Rocky Point Road has an annual daily traffic volume of more than 40,000 vehicles based on the traffic volume data published on the RMS website. As such, Council considers that it is likely to be adversely affected by road noise or vibration. Accordingly, this Clause is required to be considered as part of this assessment.

The applicant has submitted an Acoustic Report prepared by Koikas Acoustics Pty Ltd and dated 21 June 2016, which considered the potential impact of road noise on the proposed development. The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the Draft conditions of consent.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

There are no trees on the subject sites, however, there are trees in rear of the neighbouring property at 244-246 Rocky Point Road, with part of its canopy overhanging on to the subject property. An arborist

report has been lodged as part of the application. This has been reviewed by Council's Tree Management Officer, with conditions to be imposed on any development consent issued. Therefore the proposal is satisfactory with regards to the provisions of the SEPP.

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

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

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

The proposal has been referred to the Design Review Panel on 16 February 2017. The Panel recommended support for the application as it generally complies with the Design Quality Principles as prescribed in this SEPP, subject to amendments as listed below:

Opportunities for further sustainable energy outcomes in the design including solar power and water harvesting that should be considered by the applicant

Comment: The proposed development meets the BASIX requirements as discussed earlier in this report, hence no further action is deemed required.

The rooftop lawn may require increased depth and could be a very high maintenance option compared to alternatives

Comment: *The roof top communal open space area has been increased to meet the requirements of the Apartment Design Guide and the turfed areas have been reduced with an increase in paved and planted areas.*

The podium planter depth is unclear and may need to be increased

Comment: This has been reviewed by Council's Landscape Architect, and a condition will be imposed within the Draft conditions of consent at the end of this report to ensure that the minimum depth (i.e height) of the planter wall is to be 800mm for the two smaller beds on the northern elevation on the first floor podium area, and a minimum of 1 metre for the larger planter bed along the southern elevation.

Opportunity to provide shade through climbing plants to pergolas and that the overall provision of shade and control of wind to rooftop balcony could be further developed

Comment: Council's Landscape Architect has reviewed this and has recommended the construction of a pergola to provide further shading within the communal open space area. This will be imposed as a condition in the Draft conditions of consent, to be of a height no larger than the lift over run.

Not supportive of the setback of the ground floor façade to Shop 1 and Shop 2 (on the northern side of the residential entry), and it should be reduced to zero (if the glass line should be on the street frontage boundary)

Comment: All three proposed commercial tenancies now have a zero front setback to Rocky Point Road, with the exception of the a small recessed area for proposed commercial tenancy 3 to accommodate the fire hydrant.

The decorative gridded painted/textured treatment to the side elevation should be adjusted to be more in keeping with the bold proportioning of the front elevation

Comment: This can be imposed as a condition in the draft conditions at the end of this report.

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

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1: Context and Neighbourhood Character

The locality is located within the Ramsgate town centre and is zoned B4 Mixed Use as prescribed under the Rockdale LEP 2011. The existing streetscape of Rocky Point Road is characterised primarily single storey commercial buildings and multi-storey mixed use and shop top housing developments, however, given that it is on the northern fringes of the Ramsgate town centre, it also features other land uses such as low density residential dwellings and a place of worship.

The zone objectives for the B4 Mixed Use zone is to provide a mixture of compatible land uses, and to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. Accordingly, this is an area that has gradually been undergoing transition, with a number of mixed use and shop top housing developments recently constructed within the Ramsgate town centre. Furthermore, the proposal is consistent with the desired future character, with respect to generally meeting the relevant development standards in the Rockdale LEP 2011 (with the exception of the Height of Building, which will be further discussed later in this report) and all of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Rockdale DCP 2011.

Principle 2: Built Form and Scale

The built form of the proposed development will actively contribute towards the evolving nature of the streetscape and character for Rocky Point Road, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the centralised communal open space on the roof top.

Principle 3: Density

The density is considered acceptable with respect to the bulk and scale of the development, as it is generally within the LEP Height of Building development standard (with the exception of the communal open space area and lift over run), and meets the LEP Floor Space Ratio development standard. Furthermore, there is sufficient communal open space as well as private open space areas. The application of these principles means that it is not considered to be over-development of the site. It is in within the Ramsgate town centre, which has regular bus services, and is within walking distance of a number of public parks and reserves, as well as schools.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. It also complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in mid-winter.

Principle 5: Landscape

Landscape details have been provided, with respect to the communal area as well as the private courtyard areas. This has been reviewed by our Landscape Architect, and is deemed acceptable, subject to the imposition of conditions.

Principle 6: Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, natural ventilation through each floor, appropriately sized courtyards and balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

Principle 7: Safety

A condition will be imposed in the Draft conditions of consent to ensure monitored security cameras are incorporated at residential / vehicular entries, within basement levels, and also to require the provision of clear directional signage to advise users of security measures in place. With respect to the proposed development overall, it provides for an easily identifiable, prominent and generous residential lobby entry from Rocky Point Road, with commercial tenancies comprising individual distinguishable pedestrian entries. Residential apartments & car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways.

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aide in addressing housing affordability.

Principle 9: Aesthetics

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to off form concrete, glass balustrades, off white render, corrugated metal roof finish, and aluminium louvres. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

c. the Apartment Design Guide

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

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

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The proposed development provides a total of 255 square metres of communal open space on the roof top (with a minimum dimension of 3 metres) which equals to 32% of the site area.	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).	The principal communal open space area is located on the roof top. Approximately 120 square metres (63%) of this area receives solar access between 11am-2pm on 21 June (3 hours).	Yes
Part 3F: Visual Privacy	<i>Building Separation Height</i> Up to 4 storeys 9m habitable / non-habitable 12m habitable / balconies / habitable 5-8 storeys 12m habitable / non-habitable 18m habitable / balconies / habitable	The proposed development does meet the relevant standards as prescribed, and is discussed further at the end of this table.	Yes
Part 3G: Pedestrian Access and Entries	Building entries should be clearly identifiable and communal entries should be clearly distinguishable	Front entry is clearly identifiable from Rocky Point Road and the communal area on the roof top is clearly distinguishable	Yes
Part 4 Designing the Building			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building (12 units) receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 16 out of the 18 apartments (89%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	Yes

Section	Design Criteria	Proposed	Complies
	A maximum of 15% of apartments in a building (3 units) receive no direct sunlight between 9am and 3pm at mid-winter	All units will receive some level of direct solar access between 9am and 3pm on 21 June.	Yes
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	All are naturally cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.	No apartment is greater than 12 metres in depth.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: • 2.7 metres for habitable rooms • 2.4 metres for non-habitable rooms	The ceiling heights of all residential floors are 2.8 metres.	Yes
Part 4D: Apartment Size and Layout	Apartment are required to have the following minimum internal areas: • Studio: 35 square metres • 1 bedroom: 50 square metres • 2 bedrooms: 70 square metres • 3 bedrooms: 90 square metres The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.	The minimum area for the studio units are 50 square metres. The minimum area for the 1 bedroom units are 50 square metres. The minimum area for the 2 bedroom units are 70 square metres. The minimum area for the 3 bedroom units are 95 square metres.	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed a depth of 7m.	Yes

Section	Design Criteria	Proposed	Complies
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of the master bedrooms for all the units are 12sqm, whilst the secondary bedrooms are 12sqm.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	The width of the studio and 1 bedroom units is 5.6m, and the width of the 2 bedroom units are 5.6m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 5.6m.	Yes
Part 4E: Private Open Space and Balconies	All apartments are required to have primary balconies as follows: • Minimum area of 8m² and minimum depth of 2m for 1 bedroom units • Minimum area of 10m² and minimum depth of 2m for 2 bedroom units • The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for the studios are 20m ² . The minimum area for 1 bedroom units are 20m ² . The minimum area for the 2 bedroom units are 16m ² . All balconies have minimum depth of 2m.	Yes
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	A maximum of five apartments are located off a central circulation core.	Yes

Section	Design Criteria	Proposed	Complies
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: • 4m³ for studios • 6m³ for 1 bedroom units • 8m³ for 2 bedroom units At least 50% of the required storage is to be located within the apartment.	The minimum requirements are demonstrated, with a split between the unit and the basement car parking area.	Yes

Part 3F - Visual Privacy

With respect to the up to 4 storeys component of the building (i.e. ground floor to the third floor), the minimum separation distance between the habitable rooms between the two proposed buildings is 12m, which exceeds the 9m minimum as prescribed. The balconies located on the western elevation for the front building and eastern elevation for the rear building is considered to be greater than 12m when measured from the neighbouring habitable room windows for the neighbouring dwellings on Rocky Point Road (western elevation) and Campbell Street (eastern elevation). There are no windows or doors on the northern elevation (neighbouring 236 Rocky Point Road), nor on the southern elevation (neighbouring 244 Rocky Point Road), and hence no assessment of this provision is required.

With respect to the 5-8 storeys component of the building (i.e. the fourth floor), the the minimum separation distance between the habitable rooms between the two proposed buildings is 12m, which meets the 12m minimum as prescribed. The balconies located on the western elevation for the front building and eastern elevation for the rear building is considered to be greater than 18m when measured from the neighbouring habitable room windows for the neighbouring dwellings on Rocky Point Road (western elevation) and Campbell Street (eastern elevation). There are no windows or doors on the northern elevation (neighbouring 236 Rocky Point Road), nor on the southern elevation (neighbouring 244 Rocky Point Road), for the front building, and hence no further assessment is required. For the rear building, there are habitable windows on the northern elevation and southern elevation, as well as a balcony area. 236 Rocky Point Road (to the north) contains a mixed use development, however, only has a four storey building, whilst 244 Rocky Point Road (to the south) currently contains a single storey commercial building. A condition will be imposed in the Draft conditions of consent at the end of this report for the balcony areas on the northern and southern elevations to be deleted, as well as high light windows for the northern and southern elevations. This will minimise overlooking opportunities for the mixed use development at 236 Rocky Point Road, and these architectural elements should also provide appropriate visual privacy for any future residential units that may be contained within any future development at 244 Rocky Point Road.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	Yes - see discussion	Yes - see discussion
2.3 Zone B4 Mixed Use	Yes - see discussion	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes - see discussion	Yes - see discussion
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
5.1 R3 Medium Density Residential	Yes - see discussion	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes - see discussion	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes - see discussion	Yes - see discussion
6.11 Active Street Frontages	Yes - see discussion	Yes - see discussion
6.12 Essential services	Yes - see discussion	Yes - see discussion

2.3 Zone R3 Medium Density Residential

The proposal seeks to retain the rear portion of the site zoned R3 Medium Density Residential, which is 6m wide, for the purposes of 'road' as defined by the LEP. This is permissible within the subject zoning and consistent with the requirements and objectives of the zone.

2.3 Zone B4 Mixed Use

The portion of the site zoned B4 mixed use is proposed to comprise commercial premises and shop top housing. The aforementioned proposed uses are permissible within the subject zoning and thus the proposed development is consistent with the objectives and requirements of the B4 zone.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing structures on site and hence satisfies the provisions of this Clause.

4.3 Height of buildings

As per the LEP, the subject site is affected by two Height of Buildings development standards. The B4 Mixed Use area, which contains the proposed development has a prescribed maximum height of 16m, whilst the R3 Medium Density Residential area, which contains the right of way has a prescribed maximum height of 8.5m.



Figure 5: Height of Building LEP map (Source: Bayside IntraMaps)

In the B4 Mixed use area, a manual assessment of the plans has been conducted, and the proposed development comprises a height as follows:

Front building (fronting Rocky Point Road)

- Top of rooftop planter: 17m - 17.3m (1m - 1.3m variation)
- Roof: 16.1m - 16.2m (0.1 - 0.2m variation)

Breeeway

- Lift Overrun: 19.2m - 19.3m (34RL) (3.2m - 3.3m variation)
- Top of rooftop planter: 16.8m - 17m (0.8m - 1m variation)

Rear building

- Top of rooftop planter: 16.6m - 16.8m (0.6m - 0.8m variation)
- Roof: 15.7m - 16.1m (Partially compliant / 0.1m variation)

As evident from the above, the proposed development illustrates both compliance and variations to the height limits applicable. This is a direct result of the natural topography of the site and the design of the proposed development. The above represents a 0.6% - 20.6% variation to the height standard, for a small portion of the development as proposed.

It is noted that the building at the rear of the site to the rooftop level complies in full with the height

standard. The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed exceedance. The above has will be addressed in the Clause 4.6 section of this report.

4.4 Floor space ratio - Residential zones

The subject site benefits from a maximum 2:1 FSR. This is equivalent to a maximum permissible gross floor area of 1,598.2 square metres.

A manual calculation of submitted plans has been undertaken. The commercial and residential units, as well as the ground floor accessway from Rocky Point Road, commercial toilet facilities and the care takers store room at ground level have been included in floor area calculations. However, the breezeways on every floor have been excluded from the calculations, as each of these areas have an opening from one or both of the side elevations, and accordingly are not deemed to be enclosed structures, and therefore are excluded from calculations. The plant room on the ground floor has also been excluded on the ground floor, as it relates to the provision of services.

Based on this manual calculation, a total of 1,597 square metres has been calculated. Accordingly, the proposed development complies with this development standard.

With respect to the plant room, a condition will be imposed in the Draft conditions of consent to ensure that it is retained as a plant room, and not be used for any residential, commercial or storage purposes.

4.6 Exceptions to development standards

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

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

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

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

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

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

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

The proposed height variation has been assessed below.

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

A. Height

As stated within Clause 4.3 Height of Buildings, the proposal seeks to vary the 16m height standard applicable to the subject site. The proposal illustrates a partial variation to the height limit on site by 0.1m to the top of the roof for the front building, with the more pronounced variations occurring within the planter box area for the roof top communal open space and the lift over run, with a maximum height of 19.3%. This represents a 0.6% - 20.6% variation to the height standard, for a small portion of the development as proposed. It is reiterated that the building to the rear of the site complies with the height limit to the rooftop level.

Furthermore, as stated earlier in this report, it has been recommended by Council's Landscape Architect to incorporate a pergola structure within the roof top communal open space area to add to the amenity. However, a condition will be imposed that it is no higher than the top of the lift over run, so as to not create any further non-compliance with the development standard.

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

- *The non compliance primarily relates to the roof structure and planter boxes at the street elevation;*
- *The objectives of Clause 4.3 - Height of Buildings is satisfied by the proposed development.;*
- *If the proposed development were to comply with the maximum building height limit, given the orientation of the site, there would be the same degree of overshadowing to the properties to the south of the subject site;*
- *A compliant development will be detrimental as it would not be able to accommodate the lift over run, which is essential for accessibility, as well as the roof top communal open space area, which is essential to meet the communal open space requirements under SEPP 65;*
- *The proposal is consistent with the intent of the zone and the future character of the area and promotes a high quality urban form;*
- *The proposal allows for satisfactory exposure for sky exposure and daylight surrounding buildings that would be achieved by a complying development;*
- *The proposal is consistent with other development along Rocky Point Road and offers a well resolved transition between building forms along Rocky Point Road.*

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the height variation as proposed is acceptable for the following reasons:

(a) The natural topography of the site is as such that there is a cross fall of 1m from Rocky Point Road to the rear. The ground floor level of the development has been designed so as to be as close to natural existing ground level as possible. Notwithstanding, in certain locations the ground floor level is raised up to 1m to accommodate the ground floor slab.

(b) The penetration of the height limit for the front building facing Rocky Point Road is a direct consequence of the design of the proposed development which incorporates a communal rooftop terrace to both buildings. The proposal as designed seeks to maximise amenity for future occupants via the provision of this communal rooftop open space area.

The proposed rooftop structures (i.e. lift overrun, lobby, seating, pergola, BBQ facilities) are directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development. The structures service the rooftop communal open space area which has been provided to benefit the future occupants of the site. The non compliance

relates to features of the property which will significantly improve the amenity of the occupants. Rooftop elements that depart from the height standard account for a limited portion of the building footprint and are recessed into the building footprint established by the lower floors.

In general a 3m high structure is required for a lift cart with approximately 0.6m-1m additional height to permit the installation of the lift overrun which consists of cables / bolts and beams to pull the lift up and down the rails on the back wall. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.

(c) Proposed planters at rooftop level which double as balustrades are recessed into the design of the development, minimising their visual bulk and prominence. The balustrades will not be clearly visible from the public domain at pedestrian level, will not affect the visual perception of the overall built form of the proposed building, nor the land use intensity at the site. It is further noted that balustrades are required to be provided within the rooftop communal open space area to ensure the safety of users and satisfy the requirements of the Building Code of Australia.

(d) The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011, in that the development is a high quality urban form and retains appropriate sky exposure and solar access on site and to neighbouring properties.

(e) The additional height proposed does not result in detrimental environmental planning outcomes, as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site, or to neighbouring properties.

(f) Given the above, and as a result of the natural topography of the site the flexible application of the Height standard is not inappropriate in this instance.

(g) The proposal is consistent with the objectives of the zone, providing redevelopment in an accessible location. The proposed development has been designed to appropriately transition with existing building forms and the R3 Medium Density Residential zone to the rear of the site, minimising adverse impact upon the character and amenity of the surrounding local area. The proposal is consistent with the future desired character of the area as envisaged by the current planning controls.

(h) The proposal is consistent with the objectives of Clause 4.6 and of the B4 Mixed Use Zone.

The written submission provided by the applicant in relation to the proposed height variation is satisfactory in the context of Clause 4.6. The height variation does not create an undesirable outcome, the objectives of clause 4.3 and 4.6 have been met and the proposal is deemed to be in the public interest, given the public benefit of orderly development of the site outweighs strict adherence to the numeric standards presented by the height control of Rockdale LEP 2011. The height development standard is deemed unreasonable and unnecessary in this instance for the reasons noted above and there are sufficient environmental planning grounds in which to justify the contravention of the height standard for the site.

5.1 R3 Medium Density Residential

As per the requirements of this clause a strip of land 6m in width, extending for the entire length of the rear boundary of the site is to remain undeveloped and is to be dedicated to Council for the future intention of a laneway extension from Meaurants Lane to the north, to Dillon Street to the south.

Plans indicate that this portion of the site is to remain undeveloped, and shall be developed to full road standard. Given the aforementioned, the proposal complies with the provisions of this clause. The proposal has been conditioned to require the dedication of this land.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

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.

6.4 Airspace operations

The proposed development is affected by the 80AHD Obstacle Limitation Surface (OLS). The development has a maximum height of 19.57m (35.57RL) to the top of the lift overrun, and in this regard, it is considered that the proposed building will have minimal adverse impact on the OLS.

6.7 Stormwater

Stormwater drainage from the site is proposed to discharge to Rocky Point Road. The stormwater plan submitted with the application has been assessed by our Development Engineer and no objection was raised subject to conditions being attached to any development consent granted.

6.11 Active Street Frontages

The subject sites are land identified in the LEP Active Street Frontage Map. The ground floor of the premises with frontage to Rocky Point Road have been designed to comprise commercial / retail space, with direct access to the public footpath.

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

There are no Draft Environmental Planning Instruments that apply to this 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 - see discussion	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Water Management	Yes - see discussion	Yes - see discussion
4.1.4 Soil Management	Yes - see discussion	Yes - see discussion
4.1.7 Tree Preservation	Yes - see discussion	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Mixed use	Yes - see discussion	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes - see discussion	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes - see discussion	Yes - see discussion
4.4.2 Solar Access - General Controls	Yes - see discussion	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes - see discussion	Yes - see discussion
4.4.4 Glazing - General Controls	Yes - see discussion	Yes - see discussion
4.4.5 Visual privacy	Yes - see discussion	Yes - see discussion
4.4.5 Acoustic privacy	Yes - see discussion	Yes - see discussion
4.4.6 Noise Impact - Non-residential	Yes - see discussion	Yes - see discussion
4.4.7 Wind Impact	Yes - see discussion	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes - see discussion	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes - see discussion	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes - see discussion	Yes - see discussion
4.6 Car Park Location and Design	Yes - see discussion	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes - see discussion	Yes - see discussion
4.6 Driveway Widths	Yes - see discussion	Yes - see discussion
4.6 Traffic - Classified Roads	Yes - see discussion	Yes - see discussion
4.6 Access to Parking	Yes - see discussion	Yes - see discussion
4.6 Design of Loading Facilities	Yes - see discussion	Yes - see discussion
4.6 Car Wash Facilities	Yes - see discussion	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes - see discussion	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes - see discussion	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes - see discussion	Yes - see discussion
4.7 Service Lines/Cables	Yes - see discussion	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes - see discussion	Yes - see discussion
4.7 Letterboxes	Yes - see discussion	Yes - see discussion
4.7 Storage Areas	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Front Setbacks	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Side Setbacks	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Rear Setbacks	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Retail	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Access to Premises	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Visual Connections	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Awnings	Yes - see discussion	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes - see discussion	Yes - see discussion

4.1.1 Views and Vista

It is considered that the proposed development will not further obstruct any views that are currently

enjoyed by residents in proximity to the subject site.

4.1.3 Water Management

The stormwater plan submitted with the application has been assessed by Council's Development Engineer and no objection was raised subject to conditions being attached to any development consent granted.

4.1.4 Soil Management

The Soil and Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

4.1.7 Tree Preservation

There are no trees on the subject sites, however, there are trees in rear of the neighbouring property at 244-246 Rocky Point Road, with part of its canopy overhanging on to the subject property. An arborist report has been lodged as part of the application. This has been reviewed by Council's Tree Management Officer, with conditions to be imposed on any development consent issued.

4.1.9 Lot size and Site Consolidation - Mixed use

As per the provisions of this clause, for all mixed use development of 4 storeys or greater, a minimum frontage width of 18 metres is required. The subject site comprises a frontage width of 18.29 metres and therefore complies.

4.1.9 Lot size and Site Consolidation - isolated sites

The proposal does not result in the isolation of the southern adjoining lots. In the event these lots (244-246 Rocky Point Road) are amalgamated they will comprise a site frontage of 22 metres at minimum and be capable of redevelopment in their own right.

4.2 Streetscape and Site Context - General

The proposed development has been aligned and sited to physically connect to the established adjoining development at 236 Rocky Point Road to the north. The proposed development continues a street wall periphery form of development.

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to rendered concrete, glass balustrades, aluminium louvres, and off form concrete. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

The proposed development is considered to be compatible in its overall bulk, scale and character with existing established development in close proximity of the site and provides an appropriate streetscape response as required by the provisions of this clause.

4.4.2 Solar Access - General Controls

Impact to Campbell Street Properties

The subject site is located to the west of Campbell Street properties. As a result, the Campbell Street

properties will retain a minimum of 3 hours of solar access in midwinter from 9am - 12pm. From 1pm onwards in midwinter, the proposed development overshadows the rear private open spaces of Campbell Street properties, given the height, scale and orientation of the site to the west these neighbours.

Given the above the proposal complies with this requirement and sufficient solar access is retained to Campbell Street properties.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Impact to Campbell Street Properties

The subject site is located to the west of low density residential dwellings on Campbell Street. As a result, and as illustrated within submitted shadow diagrams, the Campbell Street properties will retain a minimum of 3 hours of solar access in midwinter from 9am 12pm. From 1pm onwards in midwinter, the proposed development overshadows the rear private open spaces of Campbell Street properties, given the height, scale and orientation of the site to the west of these neighbours. It is however reiterated that the Campbell Street properties retain the minimum required 3 hours solar access in midwinter as stipulated by the provisions of this clause. Given the above the proposal complies with this requirement and sufficient solar access is retained to Campbell Street properties.

Impact to 244 Rocky Point Road

A single storey commercial building exists upon 244 Rocky Point Road. This building is built to the common northern boundary with the subject site, there are nil windows or openings along this side. The building has a zero setback from its southern boundary with 244 Rocky Point Road. It is noted that the solar access requirements of this DCP relate to residential development and thus do not strictly apply in this instance.

Shadow diagrams illustrate that the proposal will entirely overshadow this southern adjoining commercial single storey building in midwinter at 9am. By 12pm in midwinter, the shadow has moved and the front façade of the shop will obtain sunlight for the remainder of the day.

Whilst the building at 244 Rocky Point Road is commercial, due consideration has been given to ensuring appropriate solar access is available to the shopfront of this building from 12pm onwards in midwinter.

Given the above, the proposal is deemed to be satisfactory with respect to the objectives and requirements of this clause.

4.4.4 Glazing - General Controls

The proposed development provides appropriate sun protection/shading devices during summer for glazed areas facing east and west, including the use of eaves.

4.4.5 Visual privacy

It is considered that visual privacy between buildings on and adjacent to the site are maximised by way of unit configuration. This is achieved through the placement of windows, screening enclosures, solid walls and satisfactory separation distances to adjoining properties on the western side of Rocky Point Road and Campbell Street to the west.

The rear setback of the proposed development provides sufficient separation distance to the neighbouring residential properties to the east, being greater than the 18m building separation standard as prescribed to address visual privacy in the Apartment Design Guide.

4.4.5 Acoustic privacy

The applicant has submitted an Acoustic Report prepared by Koikas Acoustics Pty Ltd and dated 21 June 2016, which considered the potential impact of road noise on the proposed development. The report concludes that the development will satisfy the noise level requirements as outlined in the Infrastructure SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the Draft conditions of consent.

4.4.6 Noise Impact - Non-residential

There are no uses of the commercial tenancies proposed as part of the proposed development. However, conditions would be imposed as part of any application approved for future uses to regulate noise, hours of operation and/or service deliveries.

4.4.7 Wind Impact

The applicant has submitted a Wind Report prepared by Windtech Consultants and dated 21 June 2016, which considered the potential impact of wind on the proposed development. It has provided a number of recommendations for the ground floor, communal courtyards, private balconies, connecting bridges and roof top communal open space, all of which will be imposed as conditions in the Draft conditions of consent at the end of this report.

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	Variation
10%-30% 1 bed / Studio	2 - 6	1 x studio 3 x 1 bed	Yes	N/A
50%-75% 2 bed	9 - 13	13 x 2 bed	Yes	N/A
10% - 20% 3 bed	2 - 4	1 x 3 bed	No	-1

The proposal indicates a minor non compliance with regards to the provision of 3 bedroom units on site. Notwithstanding the above, the proposal provides for a varied range and size of units within the development in order to cater for a varied demographic and different household types. As such the proposed development satisfies the objectives of the requirement and is satisfactory in this regard.

4.5.2 Social Equity - Equitable Access

As per the provisions of this clause a minimum of 10% (2) of the units within the development are to be provided as adaptable dwellings. The submitted plans indicate the provision of 1 unit (i.e 1.04), which does not comply with the requirements of this clause. A condition will be imposed in the Draft conditions of consent to provide a second adaptable unit to ensure compliance with this control.

The plans indicate the provision of ramps, lifts and level pathways on site to ensure appropriate access is provided. The proposal has been conditioned accordingly to ensure access for persons with a disability / mobility impairment is provided on site. The proposal is satisfactory in this regard

and complies with the provisions of this clause.

4.6 Parking Rates - Shop-top Housing

For this proposed development, the commercial floor space is calculated at the rate of 1 space per 40 square metres. The total number of spaces required is 4. The residential units require 1 space per studio, 1 and 2 bedroom dwelling, 2 spaces per 3 bedroom dwelling, and 1 visitor space per 5 dwellings. The total number of spaces required is 23.

Based on the above, a total of 27 spaces are required. 27 spaces are provided.

With respect to bicycle spaces, a minimum of 1 per 5 dwellings or part thereof is required for residents, and 1 per 10 dwellings of part thereof for visitors. Based on that, a total of 8 spaces are required. 10 spaces are provided on basement level 1.

4.6 Car Park Location and Design

The proposal seeks to provide a basement car parking area on site for residents and visitors via a rear lane way accessible from Meaurants Lane.

The proposal provides adequate headroom clearances and the basement levels have been designed in accordance with relevant Australian Standards. The proposal is satisfactory in relation to the requirements of this clause.

4.6 Vehicles Enter and Exit in a Forward Direction

The basement has been designed to enable forward entry and exit on site. The proposal is considered to satisfy the requirements of this clause.

4.6 Basement Parking - General

The basement area is considered to be adequately ventilated, within the building footprint of the proposed mixed use development, is generally below the natural ground level with the exception of a minor encroachment at the rear of the property, and can facilitate pedestrian movement.

4.6 Driveway Widths

The width of the driveway into the basement complies with Council's Technical Specifications.

4.6 Traffic - Classified Roads

The proposed development is located on a classified road. All vehicular access will be via a rear lane way as discussed earlier in this report.

4.6 Access to Parking

The proposal provides secure carparking behind a shutter, with the provision of an intercom for visitor access. Parking for persons with a disability / mobility impairment has been provided within close proximity to lifts and vehicles are able to enter and exit the site in a forward direction. The proposal is satisfactory in regards to the provisions of this clause.

4.6 Design of Loading Facilities

Plans indicate the provision of a dedicated van loading / unloading space within the upper basement level. The proposal facilitates loading and unloading on site and as such satisfies the objectives of this clause.

4.6 Car Wash Facilities

At least one car wash bay is required within one of the visitor spaces, which is provided on the upper basement level.

4.6 Pedestrian Access and Sustainable Transport

The proposed development indicates the provision of 3 bicycle on the upper level basement and 2 motorbike spaces on the lower level basement.

4.7 Air Conditioning and Communication Structures

Documentation submitted with the application illustrates the provision of ducted air conditioning within units, with outdoor units to be located upon unit balconies. The proposal is satisfactory in this regard.

4.7 Waste Storage and Recycling Facilities

Appropriately sized and located waste storage areas are proposed in upper basement level. Commercial and residential waste storage areas are separated with sufficient facilities proposed. The proposal is satisfactory with regards to the provisions of this clause.

4.7 Service Lines/Cables

Plans illustrate the provision of a fire hydrant booster recessed into the frontage of proposed commercial tenancy 3, addressing Rocky Point Road. The booster is to be screened with doors to match the proposed finishes of the development and will be imposed as a condition in the Draft conditions of consent.

4.7 Laundry Facilities and Drying Areas

Internal laundries are depicted upon submitted plans within residential units. The proposed development complies with the provisions and objectives of this clause.

4.7 Letterboxes

Letter boxes are proposed adjoining the main entrance to the development at Rocky Point Road, integrated into the building. The proposal is satisfactory in this regard.

4.7 Storage Areas

Residential dwellings within the development have been provided with appropriate internal unit storage provision. Additional supplementary storage is proposed at basement level. The proposal is satisfactory in this regard.

5.3 Mixed Use - Front Setbacks

As per the provisions of this clause, development on a busy road is to have a zero setback for at least the first three levels. A setback may be provided above the third level to ameliorate the impact of traffic noise and pollution.

It is noted that the setback requirement referred to above is discretionary, given adequate acoustic attenuation and streetscape presentation.

Plans illustrate the provision of a nil building setback to Rocky Point Road, for the entire length of the proposed building.

The proposal as designed is satisfactory given appropriate acoustic attenuation is capable of being

provided to residential dwellings and the proposed development provides consistency with the existing established building forms within the Ramsgate Town Centre.

5.3 Mixed Use - Side Setbacks

The proposed development contains a streetwall, hence a zero lot line is permissible for both side setbacks, which is proposed as part of this development.

5.3 Mixed Use - Rear Setbacks

The proposed development has a rear lane access, and generally will be built to the boundary, with the exception of the ground floor which is setback 3m to accommodate the private open space for the ground floor unit and on the fourth floor to provide a form of architectural articulation. In this instance, this is considered acceptable.

5.3 Mixed Use - Retail

As per the provisions of this clause, a minimum of 10% (159.7 square metres) of the gross floor area of a mixed use development is to be for retail and/or commercial uses.

Plans illustrate the provision of 159 square metres (9.6%) of commercial floor space within the development in the form of three commercial premises fronting Rocky Point Road. The proposal provides for an active street frontage within the Ramsgate Town Centre and creates opportunity for three new commercial premises on site.

Given the above, the proposed deficiency in commercial floor space within the development is deemed to be very minor and is not considered to warrant refusal of the application. The proposal is deemed satisfactory with respect to the objectives of this clause.

5.3 Mixed Use - Access to Premises

The proposed development provides access to all ground floor retail or commercial premises which addresses Rocky Point Road.

5.3 Mixed Use - Visual Connections

The glazing for the ground floor commercial tenancies is appropriately designed so as to allow clear sight lines into and out of the building.

5.3 Mixed Use - Awnings

The awning height is 3.5m at street level, which exceeds the prescribed development control of 3.3m.

5.3 Mixed Use - Secured Access to Parking

The provisions of this clause require that separate lift access be provided from basement car parking to the residential and non-residential areas within the development and seeks to ensure that residential parking spaces are secure and separate from non-residential vehicle parking and servicing areas.

The proposed development incorporates 2 basement levels. The car parking area on site is located behind a shutter with the provision of an intercom for visitor access.

One lift is provided within the development and it is proposed to be shared by both residential and non residential uses. The sharing of lifts within a mixed use development between residential and non residential tenancies is not considered to be uncommon. Given the mixed use nature of the development and provision of secure car parking on site, the sharing of lifts within this development by

future occupants is not deemed to be unreasonable.

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

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

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

Safety & Security

The development provides for clearly identifiable and legible building entries to commercial and residential components from Rocky Point Road. The residential entry comprises direct pedestrian access and a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are to be well lit with clearly defined pathways. The proposal is considered to be satisfactory in this regard.

Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport and the proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking. The proposal further provides a well designed and located communal area with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

Construction

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

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

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

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

The development application has been notified in accordance with the DCP on two occasions. A total of four (4) submissions were received in relation to the proposed development in the first round, and one (1) submission was received when it was re-notified in the second round, from one of the submitters in the first round. The issues raised in the submission are discussed below:

Height is excessive

Comment: As discussed earlier in this report, the maximum height of the proposed building is 19.3 metres above the existing ground level. The majority of the building is under the 16 metres Height of Building LEP standard, with the exception of the top section of the fourth storey plus the rooftop communal open space area and lift over run. Council is supportive of the variation, based on the Clause 4.6 variation section earlier in this report.

Excessive bulk / scale and FSR

Comment: The bulk and scale is considered acceptable, as discussed in the Clause 4.6 assessment earlier in the report, and also complies with other development standards and controls that relate to bulk and scale, such as floor space ratio and building setbacks.

Overlooking to courtyards, bedrooms, balconies and habitable rooms of southern windows of units within 236 Rocky Point Road.

Comment: There are generally no openings proposed along the northern elevation, with the exception of the breezeways and also Unit 4.02, which have three openings. However, a condition is proposed to be imposed so that these three windows are to have a minimum sill height of 1.5m above the finished floor level to ensure that privacy is maximised, as well as a reduction in the area of the wrap around balcony for the two rear units on the fourth floor. Furthermore, the breezeway will be fitted with opaque glass louvres which will restrict overlooking opportunities.

Concerns about building separation between the neighbouring development at 236 Rocky Point Road and the proposed development

Comment: As discussed earlier in this report, the building separation between the proposed development and the neighbouring development at 236 Rocky Point Road is considered to be compliant, however, further amendments to the fourth floor units with respect to the windows and balcony will ensure that visual privacy is maximised.

Overlooking impacts to communal space of 236 Rocky Point Road

Comment: As discussed earlier in this report, a condition will be imposed in the Draft conditions of consent that the three windows on the fourth floor unit is to have a minimum sill height of 1.5m above the finished floor level to ensure that privacy is maximised, as well as a reduction in the area of the wrap around balcony for the two rear units on the fourth floor.

Object to nil setback on northern boundary at upper levels / upper levels should be recessed from side boundaries

Comment: The plans have been amended to recess the fourth floor on the eastern building by 2m from both side boundaries, and also a condition will be imposed to reduce the size of the balconies for the rear units to have the area facing the east only, with no north or south facing area.

Lack of rear setback and inappropriate side setbacks

Comment: As discussed earlier in this report, the side and rear setbacks are considered to comply with the relevant side and rear setback controls, which allow construction to the boundary line in the prevailing B4 Mixed Use zone, and also the fourth floor is appropriately setback and designed to maximise visual privacy.

Lack of required communal open space

Comment: As discussed earlier in this report, the communal open space in the proposed development

complies with the requirements in the Apartment Design Guide.

'No Stopping' should be introduced to future lane

Comment: Any signage relating to the future lane is to be subject to a resolution of the Bayside Traffic Committee.

Overshadowing on to the neighbouring properties

Comment: As discussed earlier in this report, it is considered that all neighbouring properties will receive a minimum of 3 hours of sunlight between 9am and 3pm in mid-winter.

Unsafe pedestrian access

Comment: It is considered that all pedestrian access points from both Rocky Point Road and the laneway at the rear will allow for safe pedestrian access. Furthermore, conditions will be imposed in the Draft conditions of consent to ensure that pedestrian access can be maintained on Rocky Point Road during the construction phase.

Lack of car parking

Comment: As discussed earlier in this report, it is considered that the proposed development provides a compliant number of car parking spaces when assessed against the Rockdale DCP 2011.

The proposed development should dedicate some floor area to a proposed community based child care centre or disabled and senior citizens services

Comment: There are no legal requirements for the applicant to provide such services as part of this proposed development, however such uses are permissible in the B4 Mixed Use zone, and may be established in the future, subject to development consent.

Overlooking impacts to Campbell Street properties

Comment: As discussed earlier in this report, it is considered that the eastern elevation is appropriately designed with relation to the location and design of openings and also there are adequate separation distances between the rear elevation of the proposed development and the neighbouring dwellings on Campbell Street.

Acoustic impacts to Campbell Street properties

Comment: The balconies on the eastern elevation are recessed into the building and also contains a light bronze retractable louvre. These design elements will reduce the amount of noise that will be transmitted to neighbouring properties.

Unsympathetic roof line with existing buildings

Comment: It is considered that the proposed roof line is of a contemporary design and will complement the evolving streetscape along that section of Rocky Point Road.

236 Rocky Point Road is an L shaped building, plans are incorrect

Comment: Amended plans were provided to rectify this error.

Owners corporation at 236 Rocky Point Road owns part of the rear laneway from the fence line to the edge of the building and object to any acquisition

Comment: The registered Strata Plan for 236 Rocky Point Road (SP81246) does not indicate any easement that validates the ownership of this portion. This hardstand area is located within a registered right of way as discussed earlier in this report. It will facilitate a future lane way that will run between Meaurants Lane to the north and Dillon Street to the south. The boundary fence that currently dissects the middle of this hardstand area (between 236 Rocky Point Road and the loading area for the neighbouring landscape supplies business) will be required to be removed to allow for construction vehicles and then for vehicular access to the basement area once the proposed development has been completed. A condition will be imposed in the Draft conditions of consent with relation to the creation of a positive covenant in order to maintain the right of way.

Submitted work method statement says developer will erect a suitably temporary steel fence with access gate, clarification is sought as to its location, as this may impact the occupants of 236 Rocky Point Road and result in dangerous congestion of the rear lane and driveway of 236.

Comment: The applicant has clarified that the temporary steel fence will be located in the laneway at the rear of the proposed development, at the property boundary with number 236 Rocky Point Road.

Clarification sought as to what was meant by the statement of “adjacent properties and public right of way will be protected”.

Comment: This relates to the current right of way that exists in some form from Meaurants Lane to a number of properties along Rocky Point Road south of Meaurants Lane.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls.

Whilst the proposal seeks a minor variation to the LEP Height of Building development standard and DCP variations to unit mix and gross floor area of the commercial area, it is considered that the final design scheme for the site is satisfactory and that amenity impacts on site and to surrounding properties as a result of the proposed non compliance are not unreasonable.

The proposed development is permissible in the B4 Mixed Use zone and provides a mix of residential and commercial tenancies, which will support the future character of the Ramsgate Town Centre.

S94 Contribution towards provision or improvement of amenities or services

The proposal has been conditioned to require the payment of S94 contributions to accommodate for the increase in density on site and demand on local infrastructure generated.

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
1.02 / Site Plan	CMT Architects	7/2/18	12/2/18
1.98 / Basement Lower	CMT Architects	7/2/18	12/2/18
1.99 / Basement Upper	CMT Architects	7/2/18	12/2/18
2.00 / Ground Floor	CMT Architects	7/2/18	12/2/18
2.01 / First Floor	CMT Architects	7/2/18	12/2/18
2.01(A) / First Floor Adaptable	CMT Architects	7/2/18	12/2/18
2.02 / Second Floor	CMT Architects	7/2/18	12/2/18
2.03 / Third Floor	CMT Architects	7/2/18	12/2/18
2.04 / Fourth Floor	CMT Architects	7/2/18	12/2/18
2.05 / Roof Plan	CMT Architects	7/2/18	12/2/18
3.00 / North Elevation	CMT Architects	7/2/18	12/2/18
3.01 / East Elevation	CMT Architects	7/2/18	12/2/18
3.02 / South Elevation	CMT Architects	7/2/18	12/2/18
3.03 / West Elevation	CMT Architects	7/2/18	12/2/18
3.04 / Streetscape Elevation	CMT Architects	7/2/18	12/2/18
4.00 / Section AA	CMT Architects	7/2/18	12/2/18
4.01 / Section A'A'	CMT Architects	7/2/18	12/2/18
7.00 / Detail Section BB	CMT Architects	7/2/18	12/2/18
7.01 / Detail Section CC	CMT Architects	7/2/18	12/2/18
7.02 / Detail Section DD	CMT Architects	7/2/18	12/2/18
Materials and Finishes	CMT Architects		14/11/16
C101 / Landscape Plan - Ground Floor	Site Image	22/1/18	23/1/18
C102 / Landscape Plan - First Floor	Site Image	22/1/18	23/1/18
C103 / Landscape Plan - Rooftop	Site Image	22/1/18	23/1/18

C201 / Planting Plan - Ground Floor	Site Image	22/1/18	23/1/18
C201 / Planting Plan - First Floor	Site Image	22/1/18	23/1/18
C203 / Planting Plan - Rooftop	Site Image	22/1/18	23/1/18
501 / Specification	Site Image	22/1/18	23/1/18
502 / Landscape Details	Site Image	22/1/18	23/1/18
D2 / Drainage Details	LMW Design Group	9/11/16	14/11/16
D3 / Basement 2 & 1 Stormwater Drainage Concept Plan	LMW Design Group	9/11/16	14/11/16
D4 / Ground Floor Stormwater Drainage Concept Plan	LMW Design Group	9/11/16	14/11/16
D4A / OSD Tank Details	LMW Design Group	9/11/16	14/11/16
D5 / First and Second Floor Stormwater Drainage Concept Plan	LMW Design Group	9/11/16	14/11/16
D6 / Third and Fourth Floor Stormwater Drainage Concept Plan	LMW Design Group	9/11/16	14/11/16
D7 / Roof Stormwater Drainage Concept Plan	LMW Design Group	9/11/16	14/11/16

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 (773505M) 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. A separate approval is required for the Strata Subdivision.
7. An approval will be required for the specific use/uses of the property. Additional conditions may be imposed on any such consent.
Note: Parking and loading provisions in a mixed use development may preclude certain uses.
8. The balconies and breezeways shall not be enclosed at any future time without prior development consent. In this regard the louvres shall be fixed to prevent enclosure of

the balconies. Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

9. 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.
10. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
11. 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.
12. 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.
13. 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

Commercial Units 1 space per 40m² gross floor area

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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.

14. Nil mechanical plant is permitted to be installed at rooftop level. All mechanical plant is to be located within the basement of the development.
15. All waste shall be collected from within the subject site within the approved loading / unloading bay. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
16. Safer by Design
To maximise security in and around the development the following shall be

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

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
 - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
 - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - d) Graffiti resistant materials shall be used to ground level external surfaces.
 - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
17. 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.
18. 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.
19. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- (i) permit stormwater to be temporarily detained by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. 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.
22. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
23. 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.
24. Temporary dewatering of the site to construct the subsurface structure is not permitted.
25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
27. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
28. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
29. Hot and cold water hose cocks shall be installed to the garbage room.
30. In order to ensure the design quality excellence of the development is retained:
- A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the

- project;
- The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
- Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.

The design architect of the project is not to be changed without prior notice of approval of Bayside Council.

31. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.

32. The following conditions apply to the design, provision and use of off street parking facilities:

(a) The design of the off street parking facilities must comply with Australian Standard AS/NZS2890.1:2004 as amended by Council's Parking and Loading Code.

(b) The design of the off street parking facilities for the people with disabilities must comply with Australian Standard AS/NZS2890.6 as amended by Council's Parking and Loading Code.

The swept path movements for residential vehicular, mainly movements within disable parking bays to comply with Section B3 (appendix B) of AS/NZS2890.1:2004.

(c) The design of the off street commercial vehicle facilities must comply with Australian Standard AS2890.2:2002, as amended by Council's Parking and Loading Code.

(d) Provide bicycle parking facilities for residents that are class 1 or 2 in accordance with AS2890.3:1993. Bicycle parking facilities for residents shall not be Class 3 facilities.

(e) A dedicated 3.5m wide car wash facility shall be provided in accordance Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays

(f) The loading bay must be used for all loading and unloading operations associated with the use of the development. The loading bay must not be used for storage.

(g) Loading operations shall be restricted to vehicles not exceeding the dimensions of the VAN from AS2890.2.

(h) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.6 and commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.

(i) Parking spaces shall not be enclosed without further approval of Council.

(j) Parking allocation must comply with the parking rates specified in DCP and Technical Specification Traffic Parking and Access.

(k) All visitor parking shall be designated as "common property" in the allocation of parking, and on any future plan of strata subdivision pursuant to the Strata Schemes (Freehold Development) Act 1973.

Allocate all off street visitor parking, loading bays and car wash bays as 'common

property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

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

33. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
34. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
35. The recommendations of the Arborist Report prepared by NSW Tree Services P/L dated 21st June 2017 shall be implemented on site.
36. The plant room on the ground floor is to be used for services only, and shall not be used at any time for commercial, residential or storage purposes without development consent.
37. 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.

38. Landscaping
 - Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
 - A minimum soil depth of 300mm is required for turfed areas on podiums or roof-tops or any other concrete slab, including the soil above stormwater drainage tanks.
 - A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
 - 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.

- Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
- 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.
- The *Tristaniaopsis laurina* (Water gum) species in the rooftop planting is to be deleted from the plant schedule and a more robust, drought tolerant tree species substituted.
- A registered Landscape Architect, and /or specialised Landscape Architect for green walls shall be engaged to design the green wall, select species, define irrigation and prepare a Maintenance Plan. Maintenance Plan shall outline a schedule of tasks, frequency and seasons for maintenance works to be carried out.

Prior to issue of the construction certificate

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

39. 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 \$12,570.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$18.00.
40. 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.
41. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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.
42. A Section 94 contribution of \$468,112.16 shall be paid to Council. Such contribution is only used towards the provision of local infrastructure and facilities in the Ramsgate Town Centre. The contribution is to be paid prior to the issue construction certificate for works above the floor level of the ground floor. 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.

43. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
44. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
 - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
 - 4 Star for timber flooring in any area.
 - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

45. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within each residential unit, and between this unit(s) and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit number(s) 1.04 and a second nominated unit (see Condition 65). Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

Note: Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

Prior to the issue of the Construction Certificate, amended detailed basement carparking plans for the management of parking are to be submitted to Principal Certifying Authority for assessment and approval.

The design of the off street parking facilities for the people with disabilities must comply with Australian Standard AS/NZS2890.6 as amended by Council's Parking and Loading Code.

The swept path movements for residential vehicles, mainly the movements within disable parking bays to comply with Section B3 (appendix B) of AS/NZS2890.1:2004.

46. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

Note: Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

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

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

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

48. 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.

49. 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>

50. Prior to the issue of the Construction a permit shall be obtained from Council with

regards to works required by the development within the public road. Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:

- i) Construction of footpaths and streetscape works.
- ii) Construction of Kerb & Gutter
- iii) Public domain works.
- iv) Stormwater drainage works including a Gross Pollutant Trap similar to CDS Unit on the main drainage pipeline.
- v) Construction of vehicular entrances.
- vi) Construction of road pavements.
- vii) Construction of parking spaces using porous pavers.
- viii) Line marking and signs.
- ix) The construction of an awning within the road reserve of Rocky Point Road.

Refer to the section ROADS ACT for further details of these requirements, and general requirements relating to works to be constructed within the public road reserve.

- 51. 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.
- 52. 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.
- 53. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

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

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

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

COPIES OF THE CMP AND TMP SHALL BE SUBMITTED TO COUNCIL.

54. 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 Preliminary Geotechnical assessment Report prepared by Benviron Group, Ref: G194, dated 1 November 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.

55. 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.

56. The low level driveway must be designed to prevent inflow of water from the road reserve. 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.
57. The Principal Certifying Authority (PCA) shall ensure that plans submitted with the Construction Certificate demonstrate compliance with the following prior to the issue of any Construction Certificate:
- (a) All plumbing shall be concealed within the brickwork of the building.
 - (b) All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
 - (c) Glass balustrades shall be provided as frosted or opaque.
 - (d) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres

as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

(e) The recommendations of the Wind Report prepared by WindTech Pty Ltd, dated 21 June 2017 are to be implemented on site, and shown on construction certificate drawings.

(f) The noise reduction measures specified in the Acoustic report prepared by Koikas Acoustics dated 21 June 2017 shall be shown in the construction plans.

(g) A single antenna shall be provided to the building for use of all residents.

(h) The fire hydrant booster recessed into the frontage of commercial tenancy 3, shall be screened with doors which treated to match the approved finishes of the development.

(i) The size of the balconies for Units 4.01 and 4.02 are to be reduced by reducing the size of the balconies, with recessed walls along the southern elevation for Unit 4.01 and northern elevation for Unit 4.02. These balconies are to have minimum area of 10square metres and a minimum depth of 2 metres, as per Part 4E of the Apartment Design Guide, published by the NSW Department of Planning and Environment. The deleted areas are to be redesigned to form part of the roof line.

(j) All north and south facing windows for Units 4.01 and 4.02 are to have a minimum sill height of 1.5m above the finished floor level.

(k) The colours palette for the walls on the northern and southern elevations are to be more consistent with the palette used for the front setback, as per the recommendation of the Bayside Design Review Panel on 16 February 2017.

(l) The construction of a small pergola on the roof top communal open space in either space directly atop either building, to a height no taller than the lift over run, and not within the area directly above the breezeway.

58. 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.
59. Prior to the issue of the Construction Certificate, a letter from a qualified practicing Traffic Engineer, registered on the National Engineering Register, or a compliance certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act 1979) shall be submitted to the PCA. The letter/certificate shall state that the design of the off street parking including disable parking and off street commercial vehicle facilities comply with the conditions of consent relevant to the design of the facilities.
60. The low level driveway must be designed to prevent inflow of water from the road reserve. 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.

61. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying '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.
62. 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 .

63. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
64. Prior to the issue of the Construction Certificate, a letter from a qualified practicing Traffic Engineer, registered on the National Engineering Register, or a compliance certificate (in accordance with Section 109C of the *Environmental Planning and Assessment Act 1979*) shall be submitted to the PCA. The letter/certificate shall state that the design of the off street parking including disable parking and off street commercial vehicle facilities comply with the conditions of consent relevant to the design of the facilities.

Prior to commencement of works

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

65. 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.
66. 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.

67. 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.

68. 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.
69. 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.
- 70. 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.
- 71. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- 72. 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.
- 73. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

- 74. 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.
- 75. 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.
- 76. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

77. 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.
78. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
79. 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.
80. 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.

81. 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.

82. All contractors shall obtain permits for, and comply with permit conditions during all stages of demolition and construction. Refer to Council “Work Activities on Council Sites Application Form” to obtain permits for the following activities listed below. Contractors must have a valid permit prior to undertaking any work or activity within the public domain. Fines apply if an activity commences without a valid permit being issued.

- Road, Footpath and Road Related Area Closure (EP05)

This permit will allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.

- Stand and Operate Registered Vehicle or Plant (EP03)

This permit is used when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.

- Occupy Road with Unregistered Item (EP02)

This permit will allow the applicant to place unregistered items within the roadway including waste containers and skip bins.

- Works Zone (EP01)

This permit is used when a statutory work zone is required to conduct construction activities adjacent to the work site. These applications are assessed by Council officers and are referred to the Traffic Committee for approval.

- Scaffolding, Hoarding and Fencing (EP04)

This permit applies to all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.

- Temporary Shoring/Support (EP09)

This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.

- Tower Crane (EP06)

This permit is used when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.

- Public Land Access (EP08)

This permit is used by applicants to access or occupy Council land including access over plus access over and occupy any part of Council land.

- Temporary Dewatering (EP07)

This permit is used when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.

83. All demolition work shall be carried out in accordance with AS2601 – 2001: The

Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

84. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
 - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
 - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
 - vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 85. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 86. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 87. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by contacting Council's Tree Management Officer.
- 88. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
- 89. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- 90. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.

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.

- 91. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 92. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
- 93. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
- 94. 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.
- 95. 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.

96. 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.
97. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
98. Lots B and C of DP 102921 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
99. 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.
100. 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.
101. 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.
102. 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.
103. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
104. The dedication to Council of a 6 metre wide strip along the rear boundary of the site for road widening purposes.

Council requires proof of lodgement of the signed Linen Plan and 88B Instrument with the Land Titles Office.

105. Four (4) commercial off street car spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.
106. 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.
107. 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.

108. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
109. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
110. 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.
111. 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.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
114. The basement area shall be floodproofed to a minimum of 100mm above 1% AEP gutter flow. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
115. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
116. 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.
117. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates

shall be in accordance with Rockdale Technical Specification Stormwater Management.

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

118. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:

- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
- The overflow from the rainwater tank shall be directed to the storm water system.
- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

119. Prior to the issue of the Occupation Certificate, the area of land subject to the dedication to Council as public road reserve shall be turfed. Turf shall be determined by a Landscape Architect and installed to the satisfaction of the Certifying Authority. Fencing shall also be installed around the road dedication along common boundaries with adjoining lots.

120. Acoustic Attenuation

Prior to the issue of an Occupation Certificate, the following is to be prepared, undertaken and submitted to Council:

(a) Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

(b) Acoustic recommendations in relation to traffic contained in the report prepared by Koikas Acoustics dated 21 June 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.

Prior to issue of subdivision certificate

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

121. The dedication to Council of a 6 metre wide strip of land along the entire rear boundary of the site for road widening purposes. These provisions are to be put into effect prior to release of the Subdivision/Strata Certificate.
122. The subdivision is to occur in accordance with this consent and any subsequent Section 96 modifications, particularly in regard to conditions ### which have not yet been satisfactorily completed prior to release of the Subdivision/ Strata Certificate.
123. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
124. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
125. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

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

126. Where Council is **not** engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

Roads Act

127. 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.

128. 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 kerb and gutter along the rear lane 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;
129. 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.
130. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
131. 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.
132. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the principal certifying authority in relation to the awning over the Rocky Point Road frontage:
- (i) Detailed design plans and specifications, including structural details and including compliance with conditions of consent.
 - (ii) Design certificate.
- The awning shall be designed by a Chartered Professional Engineer (Structural). Awning design shall comply with following requirement of DCP section 5.3:
- (a) minimum soffit height of 3.3m;
 - (b) maximum fascia height of 600mm;
 - (c) minimum setback from edge of kerb of 600mm;
 - (d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.
- Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and

specifications.

Subject to compliance with the requirements above, Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

133. All works associated with the proposed development shall be at no cost to the RMS.
134. Any traffic control during construction must be carried out by accredited RMS approved traffic controllers.

The developer is to arrange with RMS's Transport Management Centre for any required road occupancy license and any temporary adjustment to the existing traffic signal operation during construction.

Development consent advice

- a. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- b. 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.
- c. *Dial Before You Dig*

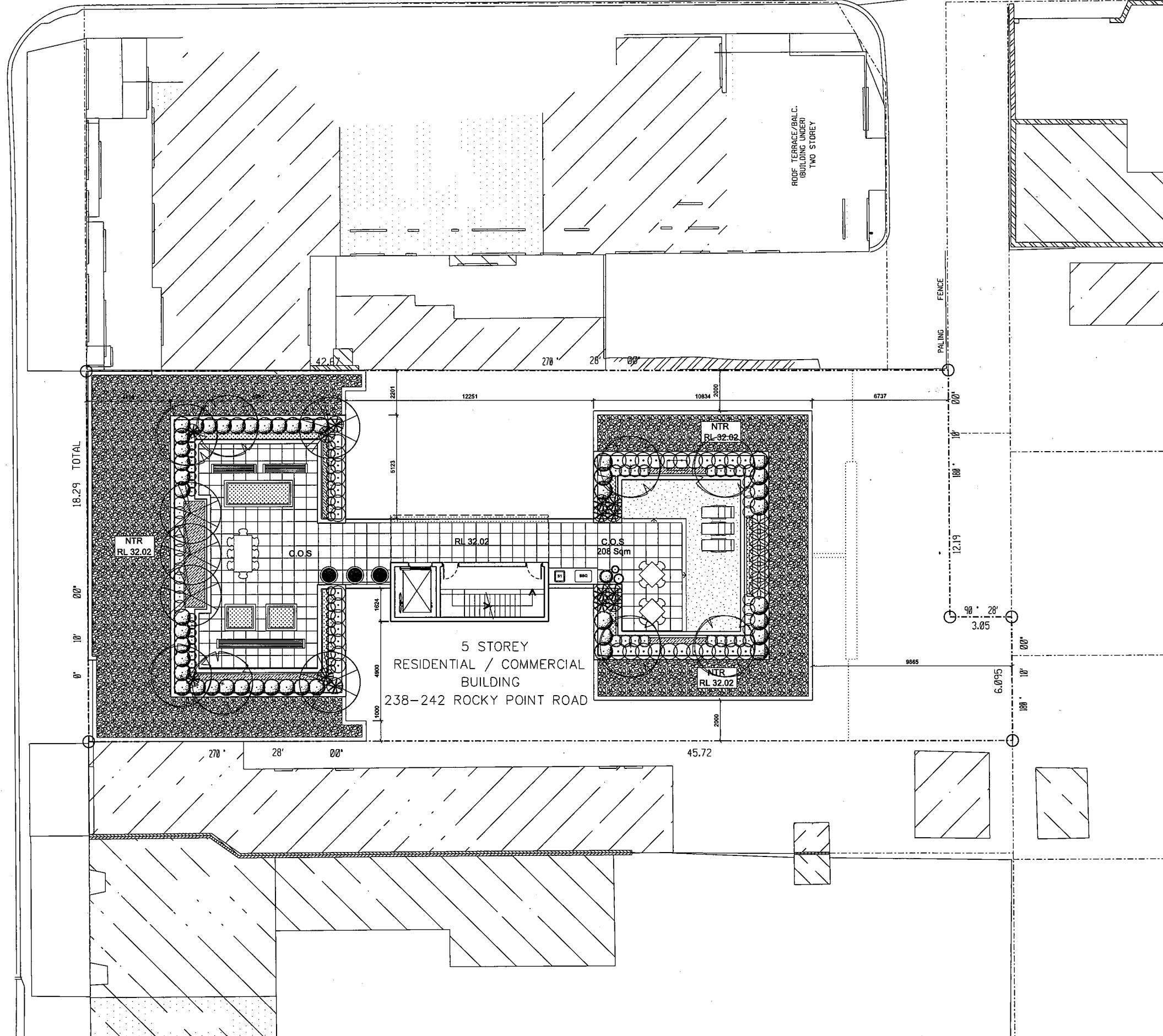
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law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

- 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.

ROCKY POINT ROAD



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Building Elements

Building Elements	Material	Detail
External walls	Hebel + Furring Channel + Gyprock	RL.5 Bulk Insulation
Walls between units and breezeway	Hebel + Furring Channel + Gyprock	RL.5 Bulk Insulation
Internal walls within Units	Plasterboard on studs	-
Common walls between Units	Hebel + Furring Channel + Gyprock	-
Floors	Plasterboard	-
Floors	Concrete	RL.0 Bulk Insulation to suspended floor to outside air units 1.01, 1.04 only
Roof	Concrete	RL.0 Bulk Insulation to top floor units
Windows	Aluminium Frame Single Glazed clear to sliding windows/doors, fixed & double hung windows	U Value 6.7 or less and SHGC 0.20 +/- 5%
Windows	Aluminium Frame Single Glazed Clear to awning windows	U Value 6.7 or less and SHGC 0.57 +/- 5%

Skylights
Lighting: Units have been rated with non-vented LED downlights as per NABERS certificate
Bathroom, Ensuite and Laundry Exhaust fans to have self-closing dampers

BASIX COMMITMENTS NOTES
* To be BASIX as indicated table with appropriate BASIX number

WATER	ENERGY	RECYCLING
Fixtures All Shower Heads 4 star	Hot water systems: Gas instantaneous - 4 star All kitchen taps 5 star	Refrigerators All Dishwashers 4 star

Basix
Kitchen ventilation system: Individual fan, ducted to facade or roof manual switch on/off
Laundry ventilation system: Individual fan, ducted to facade or roof manual switch on/off
Cooling system: Air conditioning 1 Phase - EER 3.0-3.5 (living/dining rooms)
Heating system: Air conditioning 1 Phase - EER 3.0-3.5 (living/dining rooms)
Artificial lighting: As per BASIX
Appliances:
Gas cooktop & electric oven in the kitchen of the dwellings
Dishwashers: 3.5 star energy rating
Clothes dryer: 2.0 star
Indoor or sheltered clothes drying line to be provided
Well ventilated ridge space
Beds in unoccupied bedrooms

Issue	Date	Description	By
C	07.02.18	Re-issued for Submission	AS
B	15.01.18	Re-issued for Submission (GFA adjusted)	KG
A	22.06.17	Issued for Submission	TO

CMT ARCHITECTS AUSTRALIA PTY LTD

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Web: www.cmtarchitects.com

ACN: 161 791 715

DA SUBMISSION

Client

Soleil Luxury Apartments Pty Ltd.

Project

Mixed Commercial and Residential Development
238-242 Rocky Point Road,
Ramsgate NSW 2217

Drawing Title

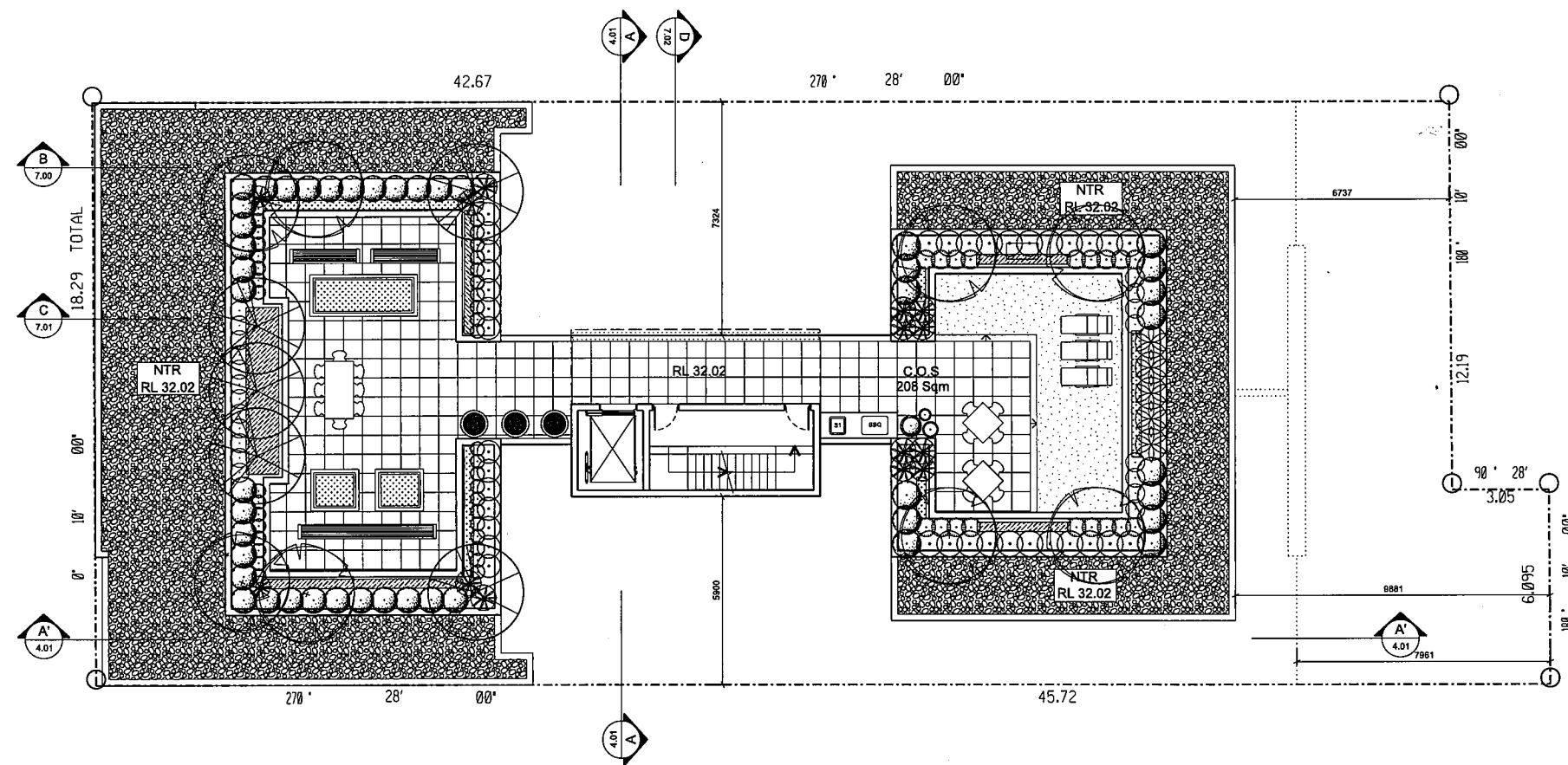
SITE PLAN

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Job No.	Drawing No.	Issue
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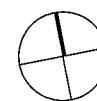
Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect.

Design Architect: Chris Tsioulos - Reg. No. 5143
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Issue	Date	Description	By

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DA SUBMISSION

Client

Soleil Luxury Apartments Pty Ltd.

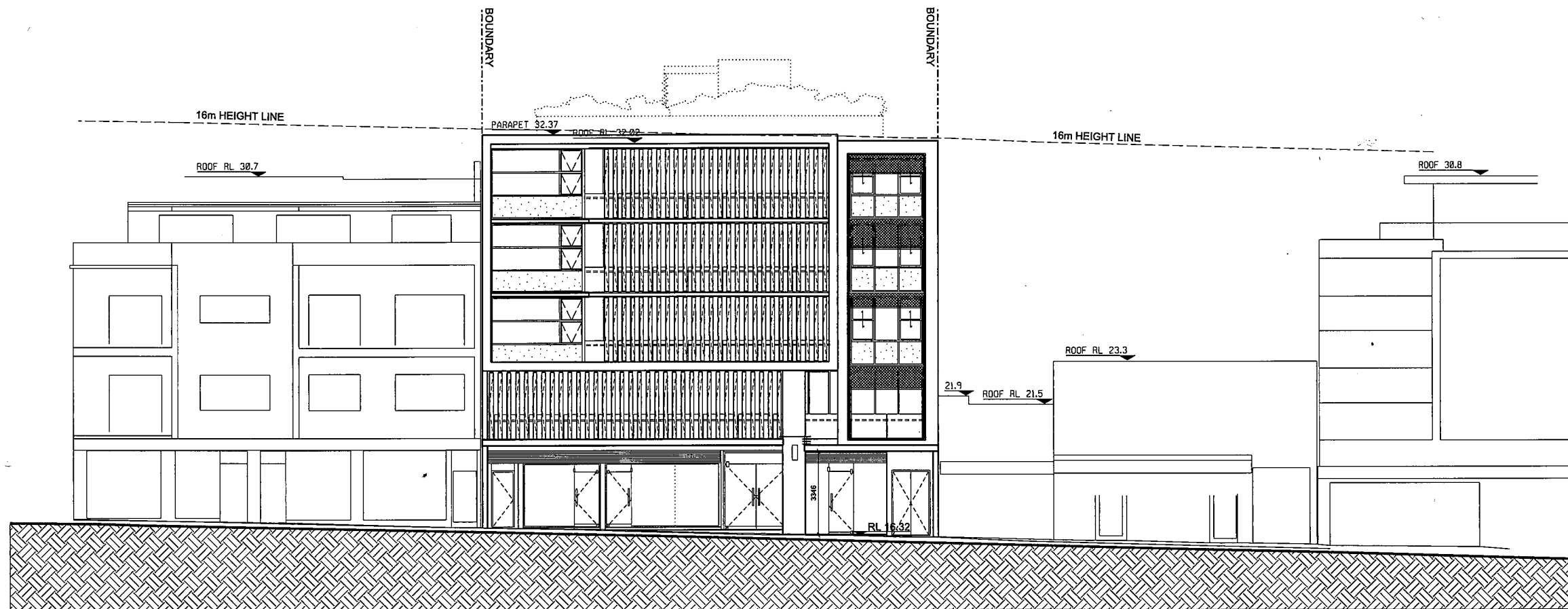
Project

Mixed Commercial and Residential Development
238-242 Rocky Point Road,
Ramsgate NSW 2217

Drawing Title

ROOF PLAN

Scale	Date	Drawn	Checked
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Job No.	Drawing No.	Issue	
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Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect.			
Design Architect: Chris Tsoulos - Reg. No. 5143			
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A	22.06.17	Issued for Submission	TO
Issue	Date	Description	By



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DA SUBMISSION

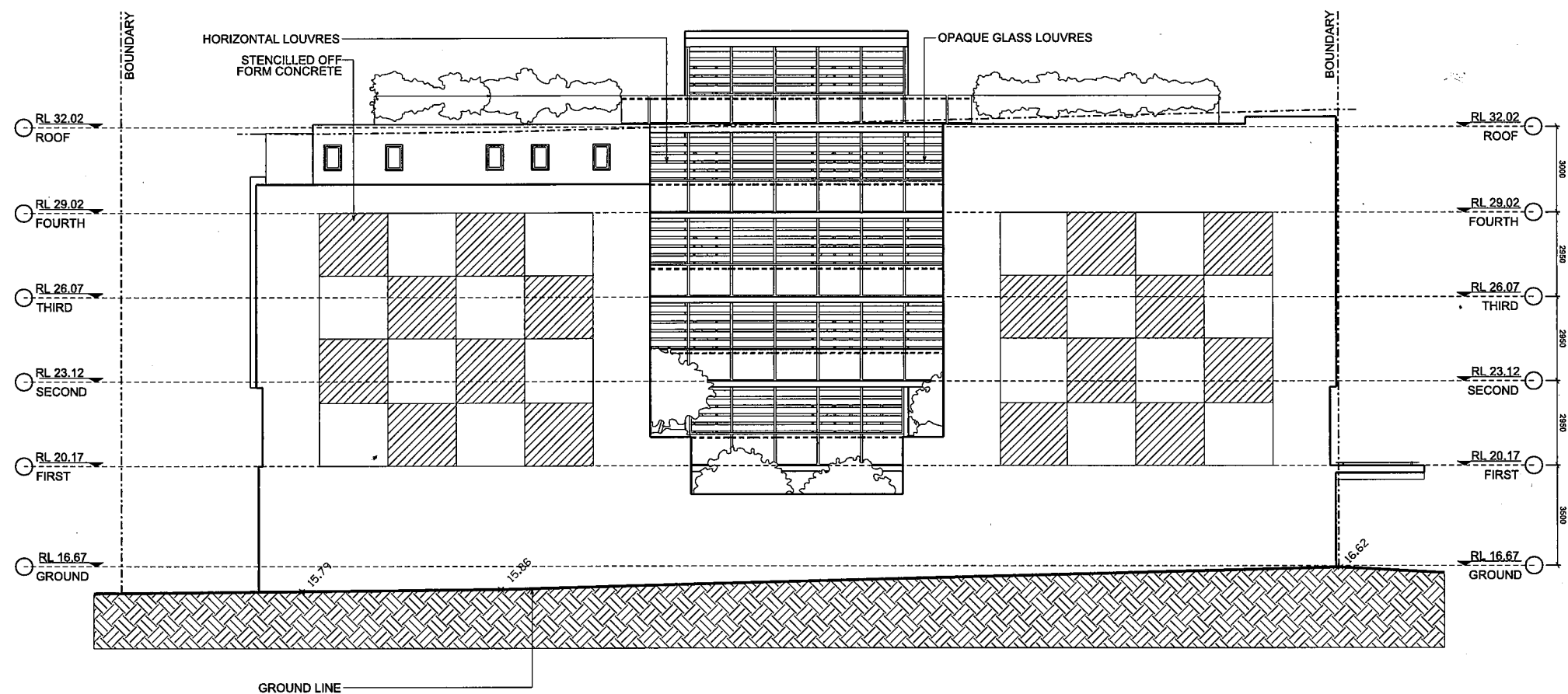
Client
Soleil Luxury Apartments Pty Ltd.
Project
Mixed Commercial and Residential Development 238-242 Rocky Point Road, Ramsgate NSW 2217
Drawing Title
STREETSCAPE ELEVATION

Scale	Date	Drawn	Checked
NTS	29.07.16	TO	CT
Job No.	Drawing No.	Issue	
	DA 3.04	C	

Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect.

Design Architect: Chris Tsioulos - Reg. No. 5143
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NORTH ELEVATION



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Building Elements	Material	Detail
External walls	Hebel + Furring Channel + Gyprock	R1.5 Bulk Insulation
Walls between units and breezeway	Hebel + Furring Channel + Gyprock	R1.5 Bulk Insulation
Internal walls within Units	Plasterboard on studs	-
Common walls between Units	Hebel + Furring Channel + Gyprock	-
Ceilings	Plasterboard	-
Floors	Concrete	R1.0 Bulk Insulation to suspended floor to outside air units 1.01, 1.04 only
Roof	Concrete	R2.0 Bulk Insulation to top floor units
Windows	Aluminium Frame Single Glazed clear to sliding windows/doors, fixed & double hung windows	U Value 6.7 or less and SHGC 0.20 +/- 5%
	Aluminium Frame Single Glazed Clear to awning windows	U Value 6.7 or less and SHGC 0.57 +/- 5%

Skylights
Lighting: Units have been rated with non-vented LED downlights as per Rethinkers certificate
Bathroom, Ensuite and Laundry Exhaust fans to have self-closing dampers

BASIX COMMITMENTS NOTES

As per BASIX as shown on the BASIX certificate

WATER	ENERGY	RECYCLING
Furnishings: All Shower Heads, All Toilet Flushing Systems, All Kitchen Taps, All Bathroom Taps	Hot water system: Gas instantaneous - 4 Star	Recycling: As per BASIX

Appliances: Dishwashers - 4.5 star water rating	Hot water system: Gas instantaneous - 4 Star	Recycling: As per BASIX
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ENERGY: Hot water system: Gas instantaneous - 4 Star	Hot water system: Gas instantaneous - 4 Star	Recycling: As per BASIX
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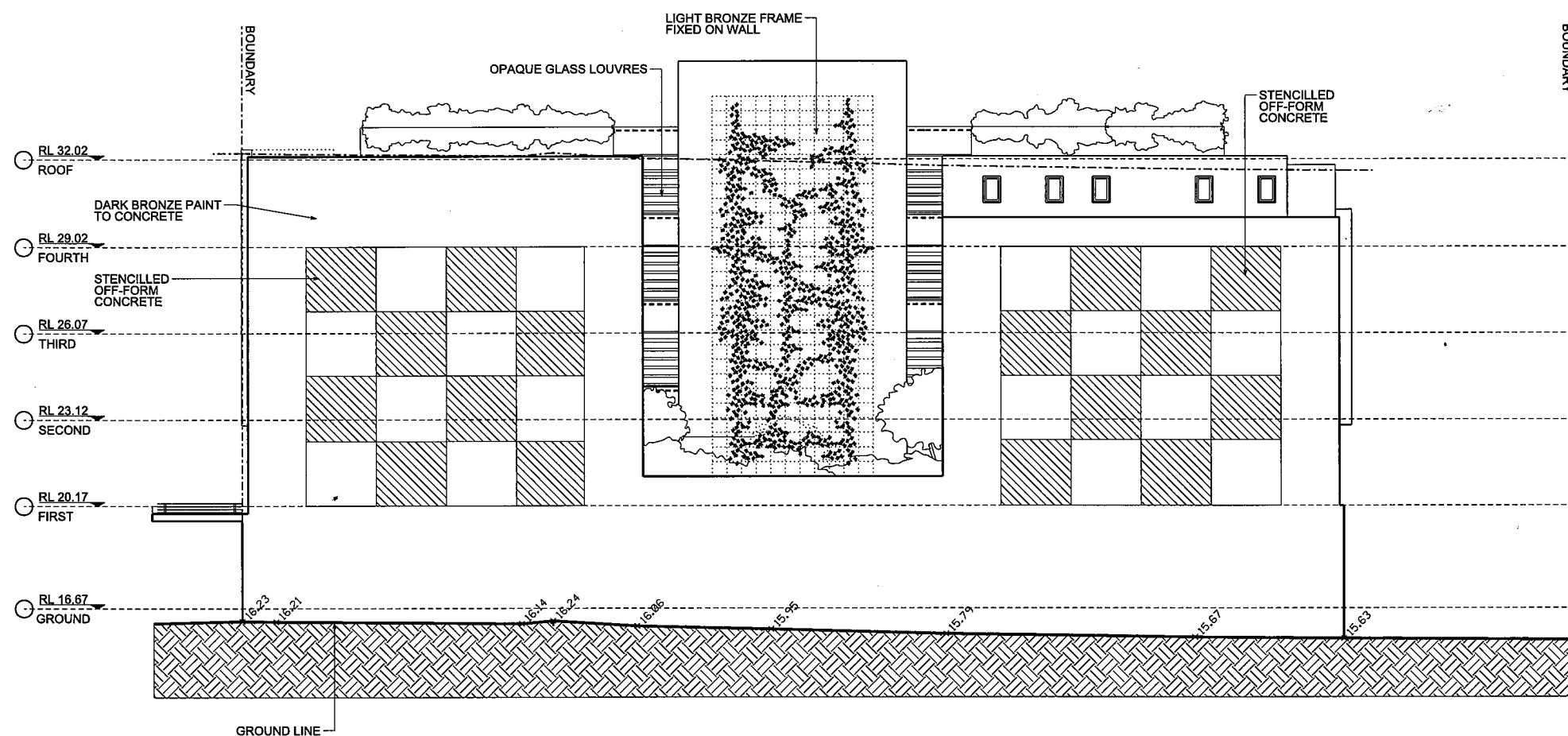
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SOUTH ELEVATION



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Internal walls within Units	Plasterboard on studs	-
Common walls between Units	Hebel + Furring Channel + Gyprock	-
Ceilings	Plasterboard	-
Floors	Concrete	R1.0 Bulk Insulation to suspended floor to outside air units 1.01, 1.04 only
Roof	Concrete	R2.0 Bulk Insulation to top floor units
Windows	Aluminium Frame Single Glazed clear to sliding windows/doors, fixed & double hung windows	U Value 6.7 or less and SHGC 0.70 +/- 5%
	Aluminium Frame Single Glazed clear to swimming windows	U Value 6.7 or less and SHGC 0.57 +/- 5%

Skylights
Lighting: Units have been noted with non-vented LED downlights as per Nathers certificate
Bathroom, Ensuite and Laundry Exhaust fans to have self-closing dampers

BASIX COMMITMENTS NOTES				
* To be set out in construction with appropriate BASIX Approval				
WATER	All Shower Heads	All toilet flushing systems	All Kitchen taps	All bathroom taps
Fixtures	Low-flow showerheads (4 litres/min)	4 star	5 star	5 star
Appliances	Refrigerators - 4.5 star energy rating	5 star	5 star	5 star
ENERGY	Hot water system: Gas instantaneous - 5 Star			
	Bathroom ventilation system: Individual fan, ducted to facade or roof manual switch on/off			
	Kitchen ventilation system: Individual fan, ducted to facade or roof manual switch on/off			
	Laundry ventilation system: Individual fan, ducted to facade or roof manual switch on/off			
REFER TO APPROVED BASIX	Cooling system: air-conditioning 1 Phase - EER 3.0-3.5 (living/bed) (onset)			
	Heating system: air-conditioning 1 Phase - EER 3.0-3.5 (living/bed) (onset)			
	Artificial lighting: As per BASIX			
	Personal lighting: As per BASIX			
	Appliances: Gas cooktop & electric oven in the kitchen of the dwellings			
	Dishwashers: 3.5 star energy rating			
	Clothes dryer: 5.0 star			
	Indoor or sheltered clothes drying area to be provided			
	Natural ventilation: AS/NZS 6801			
COMMON AREAS	Natural ventilation: AS/NZS 6801			

C	07.02.18	Re-issued for Submission	AS
B	15.01.18	Re-issued for Submission (GFA adjusted)	KG
A	22.06.17	Issued for Submission	TO

Issue	Date	Description	By
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DA SUBMISSION

Client
Soleil Luxury Apartments Pty Ltd.
Project
Mixed Commercial and Residential Development 238-242 Rocky Point Road, Ramsgate NSW 2217
Drawing Title
SOUTH ELEVATION

Scale	Date	Drawn	Checked
1:200 @ A3	10.10.16	TO	CT
Job No.	Drawing No.	Issue	
	DA 3.02	c	

Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect.

Design Architect: Chris Tsoulous - Reg. No. 5143
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LIGHT BRONZE MESH
ROLLER BLINDS

BOUNDARY

LIGHT BRONZE RETRAC LOUVRES

SILVER COLOUR
BACK GLASS

BOUNDARY

RL 32.02

ROOF

RL 32.02

ROOF

RL 29.02

FOURTH

RL 29.02

FOURTH

RL 26.07

THIRD

RL 26.07

THIRD

RL 23.12

SECOND

RL 23.12

SECOND

RL 20.17

FIRST

RL 20.17

FIRST

RL 16.67

GROUND

RL 16.67

GROUND

LIGHT BRONZE ANODISED
ALUMINIUM LOUVRES

PERFORATED METAL SCREEN
ABOVE ROLLER DOOR

ALUMINIUM FRAMED GLAZING

VENTILATION GRILLS

GROUND LINE

EAST ELEVATION

Notes

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prior written authority of the author.

Building Elements	Material	Detail
External walls	Hebel + Furring Channel + Gyprock	RL5 Bulk Insulation
Walls between units and breezeway	Hebel + Furring Channel + Gyprock	Plasterboard on studs
Internal walls within Units	Hebel + Furring Channel + Gyprock	Plasterboard
Floors	Concrete	RL0 Bulk Insulation to suspended floor to outside air units 1.01, 1.04 only
Roof	Concrete	RL0 Bulk Insulation to top floor units
Windows	Aluminium Frame Single Glazed clear to sliding windows/doors, fixed & double hung windows	U Value 6.7 or less and SHGC 0.70 +/- 5%
	Aluminium Frame Single Glazed Clear to awning windows	U Value 6.3 or less and SHGC 0.57 +/- 5%

Skylights
Lighting Units have been rated with non-vented LED downlights as per NHERS certificate
Bathroom, Ensuite and Laundry Exhaust fans to have self-closing dampers

BASIX COMMITMENTS NOTES
*To be used in conjunction with appropriate BASIX report

WATER	All Shower Heads 5 star (4 star or 3 star)	All toilet flushing systems 4 star	All kitchen taps 5 star	All bathroom taps 5 star
ENERGY	Dishwashers - 4.5 star water rating	Hot water system: Gas instantaneous - 5 Star	Bathroom ventilation system: Individual fan, ducted to facade or roof manual switch on/off	Kitchen ventilation system: Individual fan, ducted to facade or roof manual switch on/off
REFER TO APPROVED BASIX	Cooling system: air-conditioning 1 Phase - EER 3.0-3.5 (living/bed zones)	Heating system: air-conditioning 1 Phase - EER 3.0-3.5 (living/bed zones)	Appliances Gas cooktop & electric oven in the kitchen of the dwellings Dishwashers: 3.5 star energy rating Clothes dryer: 3.0 star Indoor or sheltered clothes drying line to be provided Wind vented ridge space Refer to approved BASIX report	

COMMON AREAS

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DA SUBMISSION

Client

Soleil Luxury Apartments Pty Ltd.

Project

Mixed Commercial and Residential Development

238-242 Rocky Point Road,

Ramsgate NSW 2217

Drawing Title

EAST ELEVATION

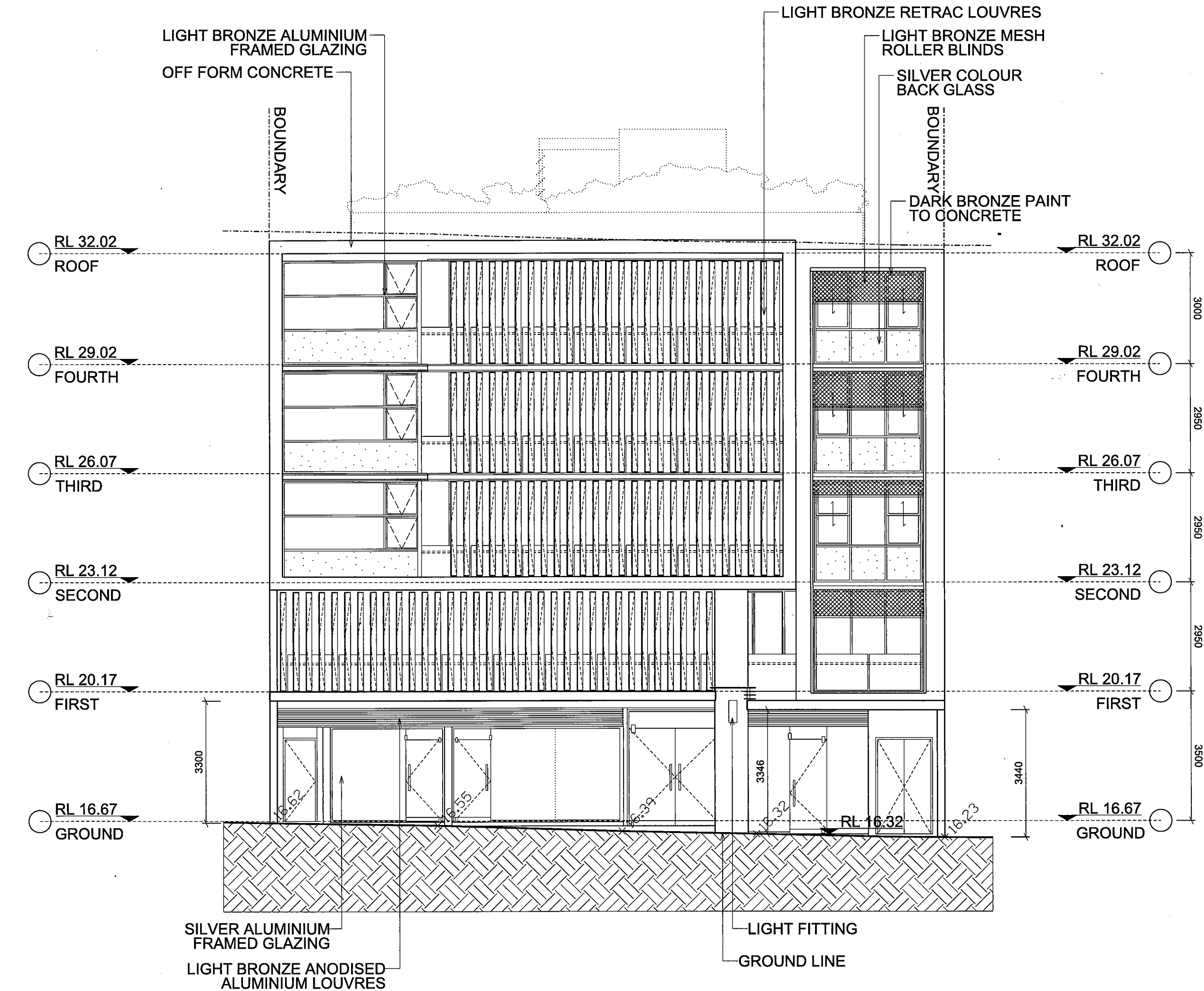
Scale Date Drawn Checked
1:100 @ A3 29.07.16 TO CT

Job No. Drawing No. Issue
DA 3.01 C

Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect

Design Architect: Chris Tsioulos - Reg. No. 5143

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WEST ELEVATION

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Building Elements	Material	Detail
External walls	Hebel + Furring Channel + Gyprock	RL 5 Bulk Insulation
Walls between units and breezeway	Hebel + Furring Channel + Gyprock	RL 5 Bulk Insulation
Internal walls within Units	Plasterboard on studs	-
Common walls between Units	Hebel + Furring Channel + Gyprock	-
Floors	Concrete	RL 0 Bulk Insulation to suspended floor to outside air units 1.01, 1.04 only
Roof	Concrete	RL 0 Bulk Insulation to top floor units
Windows	Aluminium Frame Single Glazed clear to sliding windows/doors, fixed & double hung windows	U Value 6.7 or less and SHGC 0.76 +/- 5%
	Aluminium Frame Single Glazed Clear to awning windows	U Value 6.7 or less and SHGC 0.57 +/- 5%

Skylights
Lighting: Units have been rated with non-vented LED downlights as per NABERS certificate
Bathroom, Ensuite and Laundry Exhaust fans to have self-closing dampers

BASIX COMMITMENTS NOTES
* To be taken in conjunction with associated BASIX Number

WATER	Plumbing	Water	Plumbing
Fixtures	All shower heads	All toilet flushing systems	All kitchen taps
	1 star shower head (1/2 inch)	4 star	5 star

ENERGY	Energy	Energy	Energy
Appliances	Dishwashers - 4.5 star water rating		
	Hot water system: Gas instantaneous - 4.5 star		

REFER TO APPROVED BASIX

Basix Commitments Notes

Basix Commitments Notes

Basix Commitments Notes

Basix Commitments Notes

Basix Commitments Notes

Basix Commitments Notes

Basix Commitments Notes

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DA SUBMISSION

Client
Soleil Luxury Apartments Pty Ltd.

Project
Mixed Commercial and Residential Development
238-242 Rocky Point Road,
Ramsgate NSW 2217

Drawing Title
WEST ELEVATION

Scale
1:100 @ A3

Date
29.07.16

Drawn
TO

Checked
CT

Job No.
Drawing No.

DA 3.03

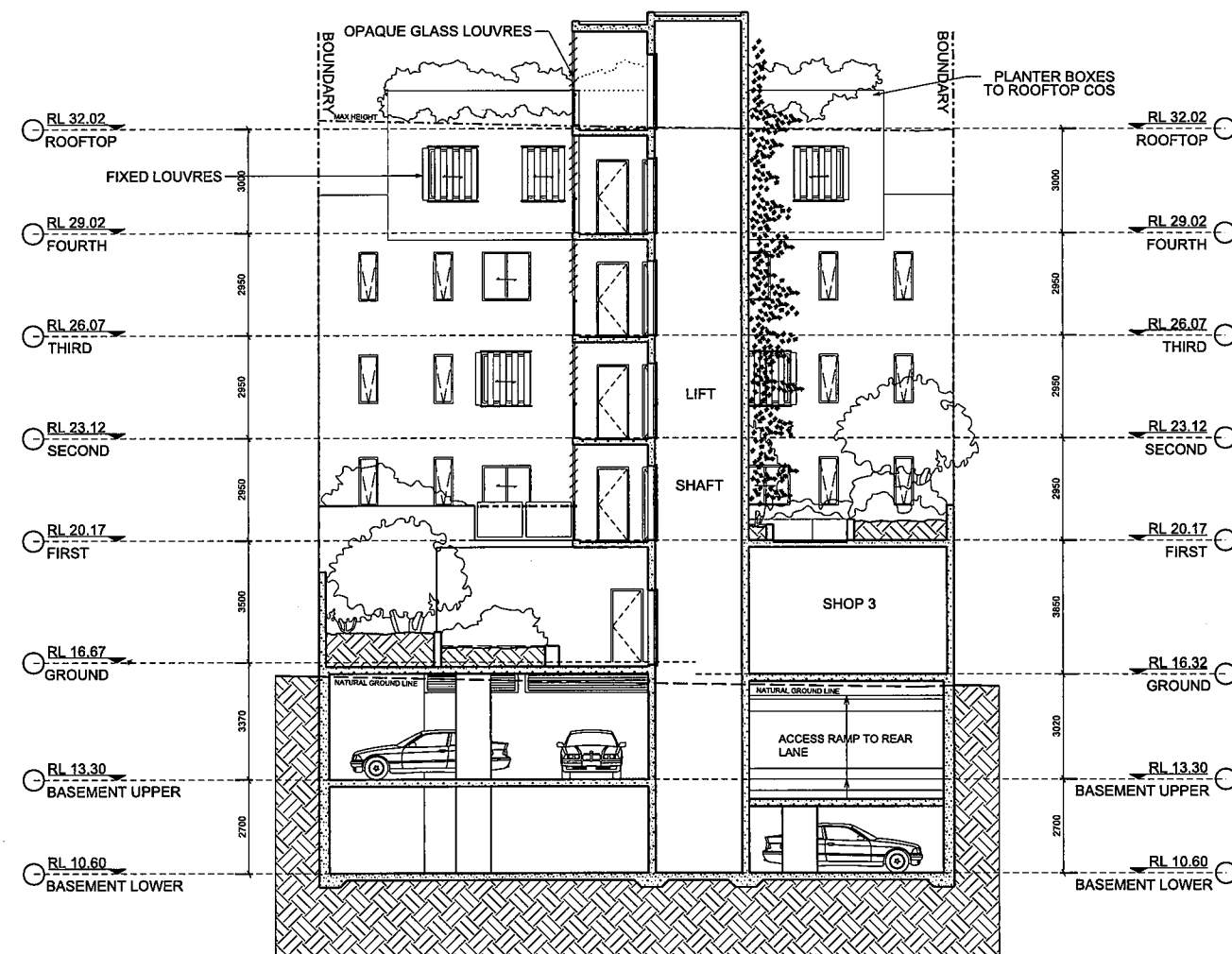
C

Design File Ref: Arch/Active/238-242 Rocky Pt Road, Ramsgate/Drawings/Architect.

Design Architect: Chris Tsoulos - Reg. No. 5143

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C	07.02.18	Re-issued for Submission	AS
B	15.01.18	Re-issued for Submission (GFA adjusted)	KG
A	22.06.17	Issued for Submission	TO

Issue	Date	Description	By
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DA SUBMISSION

Client

Soleil Luxury Apartments Pty Ltd.

Project
 Residential Development
 238-242 Rocky Point Road,
 Ramsgate NSW

Drawing Title

SECTION AA

Scale 1:100 @ A1 1:200 @ A3	Date 20.10.16	Drawn TO	Checked CT
Job No.	DA 4.00	Issue	C

Design File Ref: Arch/Active/DA

Design Architect: Chris Tsoulous - Reg. No. 5143
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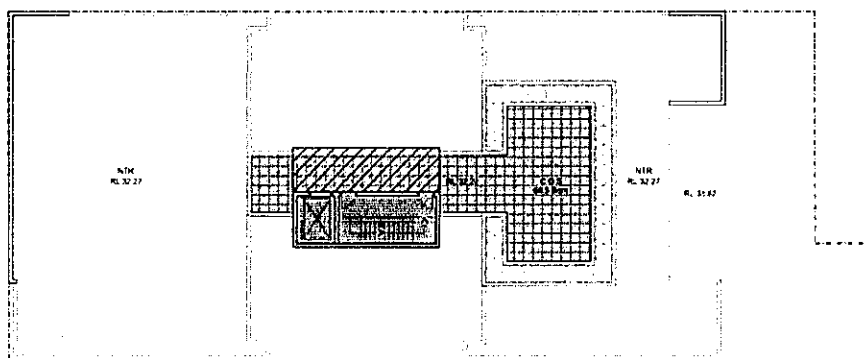
RDCP Section	ADG Design Criteria	ADG Design Criteria	Compliance
5.3 (1) and (2)	Front Setback 1. Front setbacks must define a coherent alignment to the public domain and accentuate street corners. 2. Development is to be built to the street alignment with a zero setback. The uppermost floor level may be set back. If there is a predominant parapet line in the street, a setback from this line may be required to achieve a cohesive streetscape.	The proposal provides a clear definition to the street and aligns with adjoining development.	Yes

4.2.5 Building Height

The proposed development is subject to a maximum building height of 16 metres in the RLEP. The parts of the development that are above the maximum building height include

- Minor portion of the building on the western elevation including parapet and small part of roof;
- Balustrade and landscape planter box in central part of development on the roof;
- Roof level walkway and common open space; and
- Lift overrun and fire staircase.

The figure below shows the actual area in the central part of the development that predominately exceed the maximum building height limit.



- ☒ Lift overrun and fire staircase area = 23.4sqm
- ☒ Estimated area of planter and balustrade at 1.2m high = 26.5sqm
- ☒ Estimated area of walkway and C.O.S. roof level = 73sqm
- ☒ Estimated area of pergola style roof feature = 15.6sqm

Figure 9. Areas that exceed maximum building height

The table below identifies area of the exceedance of the building height versus the actual footprint of the proposal.

Table 8. Building Height Exceedance Summary

Unit No.	Amount	Height above development standard	% Difference of dev. footprint	% Difference of 16m HOB in RLEP
Site Area	799.1sqm	--	--	--
Proposed development footprint	Approx. 510sqm	--	--	--
Lift overrun & Fire stairs	Approx. 23sqm	Up to 3.5m	4.5%	22%
Planter and balustrade	Approx. 26sqm	Approx. 1.2m	5%	7.5%
Walkway and C.O.S	Approx. 73sqm	Up to approx. 300mm	14%	2%
Pergola style roof feature	Approx. 16sqm	Up to approx. 3.2m	3%	20%

Further to the above there is also a minor exceedance to the roof level on the eastern side of the proposal that is approximately 370mm over the RLEP 16 metre height of building development standard. This equates to an exceedance of approximately 2%. On the Rocky Point Road frontage of the proposal there is a very minor non-compliance on the southern side of about 100mm, which equates to an exceedance of approximately 0.6%.

Given the orientation of the site the proposal does not significantly overshadow the lower scale development to the rear of the property for most part of the day in mid-winter. The properties to the rear of the site maintain at least 3 hours of solar access in mid-winter.

In this circumstance of the overshadowing to rear properties, we are strongly of the view that the non-compliance does generate any further detrimental impacts than what would be generated by a complying development, as the bulk of the proposal that is non-compliant is in the central part of the building.

Particularly in relation to the immediate properties to the south, a complying development on the subject site would still generate overshadowing on those immediate properties due to the orientation of the subject properties.

Further, the proposed built form that exceeds the maximum building height is located in a centre of the proposed development, which ensures that the extra mass is not visually evident from the street.

Furthermore, the minor exceedance to the front of the building on Rocky Point Road and to the eastern elevation has no material impact.

Table 8 above clearly demonstrates that the main areas of non-compliance are actually small in context of the overall building footprint and therefore would be even smaller in context of the entire site area. The table identifies that the lift overrun/fire stairs and pergola style roof feature exceed the maximum building height by up to 22% but their actual footprints are only 4.5% and 3%, respectively. While the lift overrun/fire stairs and pergola style roof feature exceed the maximum building height they do produce a significant benefit to the overall function and residential amenity of the proposal. These design features allow

access to the common open space on the roof level. As such, the proposal is considered to generate a skilful design outcome in balance of the proposal versus the minor non-material environment impacts.

In consideration of the location of the proposed built form that exceeds the height limit, as well as the degree of exceedance and in review of likely impacts it is considered that the exceedance is completely acceptable for the site.

The proposal is supported by a clause 4.6 variation, which seeks a formal exception to the development standard and provides further justification.

4.2.6 Cl. 4.6 Request for variation to height of building development standard

A request under clause 4.6 'exceptions to development standards' of the RLEP is made to vary Council's maximum building height development standard under clause 4.3 of the RLEP.

Clause 4.6 states:

"4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

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

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

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

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

Objectives of the land use zone

The site is zoned B4 Mixed Use. The objectives of the zone in the RLEP are as follows:

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

The proposal meets the above by:

- The proposal offers a mixed use development, which meets the future housing needs of the area. It also provides a type of the development that is consistent with the intent of the land use zone;
- The proposal offers a retail use on the ground level that is compatible with other uses in the area;

- The proposal does not generate any significant adverse impacts on surrounding properties;
- The proposal does not generate any significant adverse impacts that would not be generated by a complying scheme; and
- The proposal is located within the Ramsgate Town Centre where the proposed uses are encouraged by Council.

Objectives of the building height development standard

In accordance with clause 4.3 of the RLEP, the objectives of the maximum building height development standard area:

- (1) *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 proposal meets the above by:

- As discussed in Section 4.2.5, if the proposed development were to comply with the maximum building height limit, given the orientation of the site there would be the same degree of overshadowing to the properties to the south of the subject site. As well as almost the same degree of overshadowing by a complying development to the rear properties of the subject site on the eastern boundary.
- As such, the non-compliance does generate any more significant detrimental impacts than what would be generated by a complying development.
- The proposal is consistent with the intent of the zone and the future character of the area and promotes a high quality urban form.
- The proposal allows for satisfactory exposure for sky exposure and daylight surrounding buildings that would be achieved by a complying development.
- The proposal is consistent with other development along Rocky Point Road and offers a well resolved transition between building forms along Rocky Point Road.

Cl.4.6 Assessment

The first test of clause 4.6, is whether the proposal meets the objectives of clause 4.6, which area:

- (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.*

It is believed that the proposal does meet the above objectives as it offers a development that does not generate any significant environmental impacts. The proposal achieves a high quality design with excellent outcomes for the site.

The second test is under clause 4.6(3), which requires the proposal to be justified in regard to:

- (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."*

We believe that strict compliance with the development standard is unnecessary in the circumstances of the case, as the proposal generates no material impacts in regard to overshadowing that would not be generated by a complying scheme. Further, there are no view loss or significant adverse visual impacts generated by the proposal. As such, there is sufficient justification for the proposal on the environmental planning grounds to allow for the contravention of the development standard.

Summary

The proposed development is within the public interest because it is consistent with the objectives of the particular standard, providing a particularly high level of amenity for future residents whilst maintaining the current level of amenity to surrounding development.

Therefore, it is considered that strict compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards for Council to support the proposed development.

4.2.7 Cl. 4.6 Request for variation to density development standard

A request under clause 4.6 'exceptions to development standards' of the RLEP is made to vary Council's maximum density development standard under clause 4.4 of the RLEP.

Clause 4.6 states:

"4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

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

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

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

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

Objectives of the land use zone

The site is zoned B4 Mixed Use. The objectives of the zone in the RLEP are as follows:

- *To provide a mixture of compatible land uses.*

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal meets the above by:

- The proposal offers a mixed use development, which meets the future housing needs of the area. It also provides a type of the development that is consistent with the intent of the land use zone;
- The proposal offers a retail use on the ground level that is compatible with other uses in the area;
- The proposal does not generate any significant adverse impacts on surrounding properties;
- The proposal does not generate any significant adverse impacts that would not be generated by a complying scheme; and
- The proposal is located within the Ramsgate Town Centre where the proposed uses are encouraged by Council.

Objectives of the density development standard

In accordance with clause 4.3 of the RLEP, the objectives of the maximum density development standard area:

(1) *The objectives of this clause are as follows:*

- 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,*
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*
- 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.*

The proposal meets the above by:

- The proposed development includes a minor non-compliance to the density development standard that equates to approximately an additional 2.6% of gross floor area above the permissible floor space. This non-compliance is considered to be acceptable as the additional mass does not generate an unacceptable environmental impact on adjoining properties.
- The proposal achieves the desired future character of the area by meeting the land use zone objectives while also providing a high quality residential amenity outcome for future tenants. This is achieved by the skilfully designed apartment layouts and larger than the minimum ADG required apartment sizes.
- The non-compliance does generate any more significant detrimental impacts than what would be generated by a complying development.
- The proposal is consistent with the intent of the zone and the future character of the area and promotes a high quality urban form.
- The proposal is consistent with other development along Rocky Point Road and offers a well resolved transition between building forms along Rocky Point Road.

Cl.4.6 Assessment

The first test of clause 4.6, is whether the proposal meets the objectives of clause 4.6, which area:

- (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.*

Similar to the arguments presented in Section 4.2.6 of this report, it is believed that the proposal does meet the above objectives as it offers a development that does not generate any significant environmental impacts. The proposal achieves a high quality design with excellent outcomes for the site.

The second test is under clause 4.6(3), which requires the proposal to be justified in regard to:

- (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."*

Also as identified in Section 4.2.6 of this report, we believe that strict compliance with the development standard is unnecessary in the circumstances of the case, as the proposal generates no material impacts in regard to overshadowing that would not be generated by a complying scheme. Further, there are no view loss or significant adverse visual impacts generated by the proposal. As such, there is sufficient justification for the proposal on the environmental planning grounds to allow for the contravention of the development standard.

Summary

The proposed development is within the public interest because it is consistent with the objectives of the particular standard, providing a particularly high level of amenity for future residents whilst maintaining the current level of amenity to surrounding development.

Therefore, it is considered that strict compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards for Council to support the proposed development.

9 February 2018

General Manager
Bayside Council
444-446 Princes Highway,
Rockdale NSW 2216

Attn: Ms. Andrew Ison

Dear Andrew,

Re: Addendum to Clause 4.6 Request to vary building height development standard in Clause 4.3 of the Rockdale Local Environmental Plan 2011 - DA-2017/174: 238-242 Rocky Point Road, Ramsgate

This addendum supports a Clause 4.6 (Cl.4.6) of the Rockdale Local Environmental Plan (LEP) request to vary the height of building development standard under the LEP. The Cl.4.6 and addendum has been submitted on behalf of CMT Architects Pty Ltd.

On 14 November 2017, a development application (DA-2017/174) was lodged with Bayside Council (Council). The proposal consists of the demolition of the existing structures and construction of a five (5) storey mixed use development comprising of three (3) commercial suites and eighteen (18) residential units, two (2) levels of basement car parking, associated landscaping and hydraulic works.

The proposed development is subject to a maximum building height of 16 metres under the LEP. The proposed building on the site includes design elements that are located above the maximum building height, which are the roof lobby, lift overrun, landscape planters and part of building parapet. The Cl.4.6 variation request is found within the Statement of Environmental Effects (SEE).

The NSW Department of Planning and Environment (DP&E) has issued a Planning Circular (PS17-006) dated 15 December 2017 that provides guidance with respect to assumed concurrence when determining a development application that is supported by a Cl.4.6. The Planning Circular outlines the procedural and reporting requirements.

Therefore, the Cl.4.6 that supports DA-20/2017 is also required to assess Cl.4.6(5) of the LEP. Cl.4.6(5) states:

"4.6 Exceptions to development standards

(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."***

This addendum includes the relevant assessment of Cl.4.6(5) in support of the development application. The assessment of Cl.4.6(5) is to be read in conjunction with Section 4.2.4 of the SEE.

An assessment of Cl.4.6(5) of the LEP is provided below.

(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

The proposed non-compliance with the maximum building height development standard does raise any matters of significance for State or regional environmental planning. The contravention only relates to a local environmental planning matter and control.

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

Maintaining the development standard in the circumstance would result in a poorer public benefit with respect to the streetscape.

Should the proposal comply with the maximum building height development standard it would result in an inferior architectural and urban design outcome. The proposal creates a continuance and orderly built form to the streetscape. Further, the consequence of a complying scheme would be an inefficient use of land.

Moreover, the proposed design elements generating the non-compliance allow for the successful performance of the development, hence access to the roof top communal open space. Furthermore, the elements of non-compliance do not generate adverse overshadowing on adjoining properties or buildings.

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

There are no other matters to be taken into consideration by the Secretary before granting concurrence. The proposal results in an orderly and economic development for the site.

I trust that this addendum satisfies that necessary procedural and reporting requirements.

Yours sincerely,



Michael Gheorghiu
B.Eng (Civil & Bldg.), MURP, MAUDD