
Bayside Planning Panel

27/02/2018

Item No	6.2
Application Type	Development Application
Application Number	DA-2017/59
Lodgement Date	25/08/2017
Property	262-268 Rocky Point Road, Ramsgate
Owner	Tascam Pty Ltd
Applicant	CMT Architects Australia Pty Ltd
Proposal	Construction of a five (5) storey mixed use development comprising 37 residential units, three (3) commercial units and basement parking and demolition of existing buildings.
No. of Submissions	Five (5)
Cost of Development	\$13,550,520.00
Report by	Fiona Prodromou, Senior Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.3 – Height of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.
 - 2 That development application DA-2017/59 for the construction of a five (5) storey mixed use development comprising 37 residential units, three (3) commercial units and basement parking and demolition of existing buildings at 262-268 Rocky Point Road Ramsgate, be APPROVED, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That objectors be notified of the Bayside Planning Panel's decision.
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Attachments

- 1 Planning Report
 - 2 Revised Elevations West & East
 - 3 Revised Elevations North & South
 - 4 Revised Section AA
 - 5 Revised Roof Plan
 - 6 Revised Clause 4.6 – Height
 - 7 Revised Materials & Finishes
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Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/59
Date of Receipt:	25 August 2016
Property:	262 Rocky Point Road, RAMSGATE (Lot 34 DP 2032) 266 Rocky Point Road, RAMSGATE (Lot 33 DP 2032) 268 Rocky Point Road, RAMSGATE (Lot 32 DP 2032)
Owner(s):	Belmore Park Developments Pty Ltd Tacsam Pty Ltd
Applicant:	CMT Architects Australia Pty Ltd
Proposal:	262-266 & 268 Rocky Point Road, RAMSGATE NSW 2217 - Construction of a five (5) storey mixed use development comprising 37 residential units, three (3) commercial units and basement parking and demolition of existing buildings
Recommendation:	Approved
No. of submissions:	Five (5)
Author:	Fiona Prodromou
Date of Report:	6 February 2018

Key Issues

The subject site is zoned both B4 - Mixed Use and R3 - Medium Density Residential under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed commercial and shop top housing development is restricted to the B4 portion of the site and is permissible with consent. The R3 portion of the site is to remain vacant and shall be dedicated to Council for a future local road dedication.

The proposed development seeks to vary the maximum height limit on site by 0.4m - 3.5m (2.5% - 21.8%) to a minor portion of the front building facing Rocky Point Road. The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The proposal indicates a variation to the building separation requirements of the Apartment Design Guide at level 5. This has been discussed within the report and the variation is deemed to be acceptable in this instance.

The proposal illustrates variations to the provisions of DCP 2011 with regard to unit mix and side building setbacks. These matters have been discussed within this report and are worthy of support.

The property, along with adjoining neighbours is subject to a road reservation along the rear portion of the site, to facilitate the future construction of a service lane from Meaurants Lane to the north to Dillon Street to the south. The development proposes vehicular access from the front of the property at Rocky

Point Road, until such time as a future rear lane is constructed by Council. Following the construction of the rear lane, vehicular access to Rocky Pt Road is to cease and be closed, with the principal point of vehicular access to be via the service lane. Details of vehicular access from both points were provided to Council.

The development application has been notified in accordance with Council's Development Control Plan 2011 on two occasions. A total of five (5) submissions were received in relation to the proposed development.

The proposed development is recommended for approval subject to the conditions 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 Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.
- (2) That development application DA-2017/59 for the construction of a five (5) storey mixed use development comprising 37 residential units, three (3) commercial units and basement parking and demolition of existing buildings at 262-268 Rocky Point Road Ramsgate, be APPROVED, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- (3) That the objectors be notified of the Bayside Planning Panel's decision.

Background

History

DA-2008/169 - Refused 25 June 2008

Demolish existing structures and erect a 5 storey mixed use development containing 23 residential units, 3 commercial units and associated car parking in 2 basement levels.

S82-2009/2 - Deferred Commencement Approval 5 November 2008 (Lapsed)

Review of Determination S.82A Application - Demolish existing structures and erect a 5 storey mixed use development containing 23 residential units, 3 commercial units and associated car parking in 2 basement levels.

DA-2015/341 - Withdrawn 23 February 2016

Construction of a five (5) storey mixed-use development comprising three (3) retail/commercial units, forty-nine (49) residential units, two (2) levels of basement parking, strata subdivision creating 52 lots and demolition of existing structures.

DA-2017/59 - Submitted to Council on 25 August 2016

Construction of a part 5 and part 6 storey mixed use development comprising 49 residential units, three (3) commercial units and basement parking and demolition of existing buildings.

5-21 September 2016

Public notification of proposed development.

14 September 2016

Review by Design Review Panel. The proposal did not support the proposal in its form at the time.

22 December 2016

Correspondence sent to applicant advising of non compliances and issues including but not limited to density, height, scale, bulk, insufficient building separation, insufficient setbacks, lack of communal open space, landscaping, inadequate space for tree planting, excessive central circulation bridging elements and residential amenity etc.

22 June 2017

Following the receipt of Council correspondence, amended plans were submitted to Council . Primary changes incorporated by the architect were the deletion of the previously proposed 6th level, increase in building separation, reduction to proposed finished ground floor level from 15.3RL to 14RL - 14.9RL, introduction of upper level building setbacks, reduction in number of units from 49 to 38, increase in level of communal open space and provision of rooftop communal open space to front building facing Rocky Point Road, improvements to unit layouts, deletion of central circulation spaces, provision of single lift core within each building form and a range of design modifications.

16-29 August 2017

Renotification of final revised plans.

7 September 2017

Reconsideration of amended plans by Design Review Panel.

October - December 2017

Applicant undertakes final design revisions, including introduction of setbacks to top floor and FSR reductions. This results in the reduction of a further unit from 38 to 37.

Proposal

The proposed development seeks to undertake the construction of a five (5) storey mixed use development comprising 37 residential units, three (3) commercial units and basement parking and demolition of existing buildings. The proposed development comprises as follows:

Basement 2

31 car spaces (incorporating 3 accessible / 1 dedicated carwash bay) 4 motor bike spaces, bicycle storage room for 4 bikes, residential storage, fire exit, lift access and associated pedestrian and vehicle circulation.

Basement 1

21 car spaces (incorporating 1 accessible / 1 dedicated loading/unloading bay), 2 motorbike, residential / commercial waste storage rooms, plant rooms, residential storage, fire exit, lift access and associated pedestrian and vehicle circulation.

Ground Level

Vehicular access to basement level car parking areas on site is from Rocky Point Road via a split, splayed left in left out driveway arrangement. The basement level has been designed to facilitate the creation of a vehicular entry / exit to the future rear lane when this is acquired by Council in future. Upon

this occurring, the closure of the driveway access to Rocky Point Road will generate a further 2 additional car spaces in the basement level.

Two building forms are proposed on site with a centralised communal open space area at ground level, open to the sky above. The ground level of the development incorporates three shop fronts to Rocky Point Road with a centralised residential lobby / access to the development. Each shop incorporates private amenities and a rear private terrace with 1.2m high balustrade.

A central communal open space area is provided within the site with gathering spaces to the east and west incorporating seating, tables, planters, a bbq facility and pergola structure. Three residential units (2 x 2 bed / 1 x 1 bed) are proposed fronting the rear of the site, with associated private open space areas. Private open space areas to dwellings located centrally within the site incorporate periphery 1.8m high timber / masonry screening for privacy.

Planting within ground level planters includes a range of groundcovers, shrubs and trees including but not limited to Bradford Pear (up to 10m height), Dwarf Magnolia (up to 4m height), Japanese Box (up to 1.5m height) etc.

Levels 1 - 3 (per floor)

Building A fronting Rocky Point Road comprises 5 units (3 x 1 bed / 2 x 2 bed) with associated balcony spaces with internal lift access.

Building B fronting the rear of the site comprises 4 x 2 bed units with associated balcony spaces. Bedroom windows facing the rear of the site are screened with full height fixed vertical blade louvres, to obscure sightlines to Campbell Street properties to the rear. Balconies to these units are recessed a minimum of 2.2m from the building alignment, with the balcony edge 6m from the common rear boundary with Campbell Street properties. An open breezeway facing into the site provides pedestrian / lift access to units in this building.

Level 4

Building A fronting Rocky Point Road comprises 4 units (2 x 1 bed / 2 x 2 bed) with associated balcony spaces and internal lift access. This level is recessed from the front and sides of the floor below with periphery screen planting provided to balcony spaces.

Building B fronting the rear of the site comprises 3 units (2 x 3 bed / 1 x 1 bed) with associated balcony spaces. This level is recessed from the rear and sides of the floor below with periphery screen planting provided to balcony spaces. An open breezeway facing into the site provides pedestrian / lift access to units in this building.

Associated storm water works are proposed on site in addition to the dedication of a strip of land 6m in width, extending for the entire length of the rear boundary of the site. This land is to remain undeveloped, is to be turfed and dedicated to Council for the future intention of a service laneway extension from Meaurants Lane to the north, to Dillon Street to the south.



Site location and context

The subject site comprises 3 allotments, being 264, 266, 268 Rocky Point Road Ramsgate. The site has a surveyed frontage of 30.79m, overall site area of 1407.6sq/m and cross fall of up to 1m from the north western to south eastern corners of the site. The property is currently occupied by three single storey semi detached commercial buildings, with an attached residence to the rear of 266 Rocky Point Road. A mature Illawarra Flame, Brushbox and Mango tree are located within the rear of the site and are proposed to be retained.



Subject site aerial context

To the north of the site is a five storey shop top housing development with 3 shops at ground level fronting Rocky Point Road and 26 residential dwellings. To the south of the site are single storey commercial buildings which are not as yet developed to their full potential.



Existing streetscape looking north

To the east of the site are 17, 19, 21 Campbell Street, Ramsgate, these are single storey detached dwelling houses and are zoned R3 Medium Density Residential.



Properties to rear of site fronting Campbell Street

Opposite the site to the west within the Georges River Council area is 183-189 Rocky Point Road Ramsgate, a 6 storey shop top housing development incorporating 8 commercial tenancies at ground level and 65 residential dwellings. Further to the north west of the site lies the Ramsgate Community Church which is local heritage item under Kogarah LEP 2012.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 605851M_05. The commitments made result in reductions in energy and water consumption. A condition has been imposed on the consent to ensure that these requirements are adhered to.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road i.e. Rocky Point Road. In this regard, clause 101- Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site from Rocky Point Road as at this point in time alternative vehicular access via a future intended road reservation is unavailable as land to construct this intended laneway has not been acquired by Council.

Accordingly, the proposal was referred to the Roads & Maritime Service (RMS) for review. The RMS granted concurrence for the proposed development on 25 January 2018 subject to specific conditions of consent which have been incorporated into the draft notice of determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

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

The proposed development is for shop top housing, that is adjacent to a classified road with an annual average daily traffic volume of more than 40,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

The applicant has submitted an Acoustic Report prepared by Koikas Acoustics Pty Ltd and dated 1 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 Notice of Determination.

Clause 45 - works within the vicinity of electricity infrastructure

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

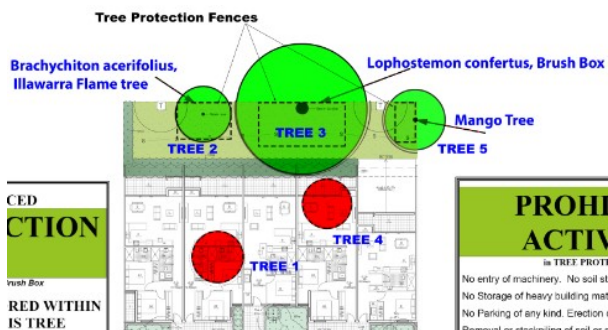
Accordingly, the proposal has been sent to Ausgrid. Nil response was received, notwithstanding, appropriate conditions of consent have been imposed in the draft Notice of Determination which ensure appropriate dialogue is maintained between Ausgrid and the developer at a future stage where

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

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

The subject site comprises a significant tree within the rear of the property adjacent to the rear property boundary. This tree is considered to be an Illawarra Flame, is mature and comprises a significant canopy. The proposed landscape plan indicates the retention of the large aforementioned tree, within the rear turfed laneway reservation until such time as the laneway is ready for construction.

An Arborist Report prepared by Horticultural Resources Consulting Group dated 10th May 2017 was submitted to Council for review. The Arborist report identifies 2 significant native trees on site, being the Illawarra Flame referred to above and a Brush box, both positioned along the rear boundary of the site. The recommendations of the aforementioned report stipulate that both these trees are to be retained and adequately protected. An existing high amenity Mango fruit tree in the rear south eastern corner of the site will also be retained and protected. The Arborist Report further states that a weed species palm and low amenity shrub will be removed to facilitate the proposed development.



Councils Tree Preservation Officer has reviewed the submitted Arborist Report and concurs with the recommendations of this report. The proposal will thus be appropriately conditioned to ensure that the recommendations of this report are adhered to and the three trees within the rear of the site as noted in this part are subsequently retained and protected. 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 was reviewed by the Design Review Panel on 14 September 2016. The DRP raised a number of concerns including but not limited to the proposed height, density, scale, FSR, setbacks, central circulation spaces, lack of communal open space, impact on the significant tree within the rear of the site, residential amenity, unit mix etc. The proposal was not supported by the Design Review Panel.

Revised plans were submitted to Council in June 2017, these plans were reconsidered by the DRP at its meeting on 5th October 2017. The Panel noted previous matters of concern in relation to context, neighbourhood character, landscape, amenity, housing diversity, safety / security and aesthetics had been resolved, yet minor concerns remained in relation to laneway interface and

sustainability measures. The aforementioned has been discussed below.

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 Neighborhood Character

The subject site is zoned B4 - Mixed Use and located within the Ramsgate Town Centre, of which a large number of similarly zoned properties remain undeveloped to their full potential. Current planning controls permit shop top housing developments up to a height of 16m, this can accommodate 5 storey developments. Properties directly adjoining the site to the east are zoned R3 - Medium Density Residential and can facilitate redevelopment up to a maximum height of 8.5m. A number of five storey mixed use developments exist on the eastern side of Rocky Point Road, one of which directly adjoins the subject site to the north.

The proposed development is setback a minimum of 6m from rear property boundaries with eastern properties and has been designed to present as a 4 storey building form, with the 5th level recessed from the front, sides and rear of the subject site. Recessing the top floors of the development reduces the visual prominence, bulk and scale of the development and minimises adverse impacts to eastern neighbours.

The proposal in its current form is deemed contextually appropriate as it does not result in unreasonable adverse impacts to neighbours as discussed in this report, provides an appropriate interface with the R3 zone to the east, is consistent with both established and emerging building forms and the future desired character of the Ramsgate Town Centre.

The DRP raised no objection to the proposal with respect of context and neighbourhood character. The proposal is satisfactory with regards to this principle.

Principle 2 – Built Form and Scale

The DRP noted that the 'design of the laneway interface needs further resolution to provide privacy and amenity to the neighbouring properties and better interface to the future laneway. Provision of planters to all levels and therefore deeper setbacks to the private open space and habitable spaces would achieve this'.

Comment: Matters in relation to visual amenity are discussed below under section 3F of the Apartment Design Guide. Whilst the above is noted, it is considered that amended plans adequately address privacy and amenity between the subject site and properties to the rear fronting Campbell Street.

With respect of the interface of the proposed development to the future service laneway, the ground floor level incorporates three balconies which are screened to a fixed point, in addition to one unscreened bedroom window and balcony. The proposal as designed provides for passive surveillance of the future service laneway to some degree and is not considered to provide an unsatisfactory interface given the nature of the future service lane.

The proposed development incorporates two detached building forms on site to the front and rear of the property. The height of the building to the rear is reduced, with the bulk of the height to the front of the property, thus providing an appropriate mass and scale at the zone interface.

The lack of central bridging elements between buildings, as was originally proposed, allows maximum solar access penetration on site and minimises overshadowing impacts to the southern properties. The design of the proposal facilitates a pattern of built form that has regard to southern adjoining lots which are not as yet developed to their full potential.

The proposal is generally consistent with the desired future character of the Ramsgate Town Centre in terms of its overall bulk and scale, despite a minor non compliance in relation to building height. The scale, footprint and mass of the development fits appropriately with approved existing development adjoining and further to the north of the subject site. The proposed development is consistent with the scale of existing and emerging contextual development. The proposal is satisfactory in regards to this principle.

Principle 3 – Density

The DRP raised no objection to the proposal with respect of density. The proposal complies with this requirement and is deemed to be satisfactory with regards to this principle.

Principle 4 - Sustainability

The DRP noted that the *'development could benefit from rainwater harvesting, photovoltaic panels and broader sustainability initiatives beyond the minimum required'*.

Comment: Energy efficiency is appropriately addressed by the BASIX certificate requirements accompanying the application. The passive solar design of the proposal is appropriate with solar access maximised to the proposed dwellings, their balconies and communal open spaces given the east west aspect of the site, building design and orientation.

Principle 5 – Landscape

Plans illustrate that the proposal complies with and exceeds the deep soil requirements of the ADG. Whilst this attributes to the turfed area along the rear of the site which is intended to be converted to a service lane at some time in the future, this is unlikely to occur anytime soon and thus the area will function as a strip of landscaping in the interim. In addition to the aforementioned, an existing Illawarra Flame, Brush-box and Mango Tree in this area are to be retained and protected as stipulated by the Arborist Report prepared by Horticultural Resources Consulting Group dated 10th May 2017.

The proposal incorporates central ground level and rooftop communal open space areas. These communal spaces have been attractively designed and landscaped with a mix of groundcovers, shrubs and trees to provide amenity for future occupants. i.e. visual amenity, shade, equitable access, opportunities for social interaction etc. The proposal incorporates automated irrigation to ensure the health and survival of landscaped areas on site.

The Rocky Point Road elevation of the proposed development incorporates periphery decorative planting at level 5, which contributes to the streetscape and visual amenity of the town centre.

The proposal is considered to be satisfactory in relation to this principle.

Principle 6 – Amenity

Solar access & cross ventilation to apartments is maximised, with dwellings oriented to the east and west. Appropriate levels of privacy are provided to dwellings on site, with privacy to eastern neighbours maximised, given privacy measures proposed. Refer to discussion on visual privacy below.

Unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces & rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary at basement level. Security parking is provided at basement level with direct lift access.

Sufficient and well designed communal open space areas are provided within the development which will encourage social interaction and maximise amenity for future occupants. The proposal is satisfactory in regards to this principle.

Principle 7 - Safety

The proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries & within basement levels & to require the provision of clear directional signage to advise users of security measures in place.

With respect to the development overall, the proposal provides for an easily identifiable, prominent & generous residential lobby entry from Rocky Pt 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. The proposal is satisfactory with regards to this principle.

Principle 8 - Housing Diversity and Social Interaction

The design of the development and proposed unit mix provides for varied housing choice for a variety of household types. The development is designed to provide two appropriate communal facilities at podium and rooftop level with various spaces which will encourage and provide opportunities for social interaction between future occupants.

The DRP was supportive of the proposal in regards to this principle.

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, marine grade ply wood, corrugated metal roof finish, mesh external blinds and aluminium louvres. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

Additionally, periphery planters are provided at the fourth and fifth levels, incorporating planting capable of growing to a height of 1.5m - 2m, which will assist in further softening the façade of the development.

The DRP was supportive of the proposal, stating that the design is of merit and it is deemed that the proposed development satisfies this principle.

c. the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA		COMMENTS	COMPLIES
3D - Communal and Public Open Space	25% (351.9sq/m) site area as COS 50% (175.9sq/m) COS to receive min 2 hours direct sunlight in midwinter 9am - 3pm		298.2sq/m ground floor COS 161sq/m rooftop COS Total = 459.2sq/m	Yes
3E - Deep Soil Zones	7% (98.5sq/m) site area Min 3m dimensions		184.74sq/m (13.1%) turfed deep soil within rear of site with min 6m dimensions, to be dedicated for the purposes of a future roadway. As this is currently part of the site, this is to be counted as deep soil area.	Yes
4D – Apartment size and layout	Type	Min area	1 bed - 50sq/m - 63sq/m 2 bed - 70sq/m - 83sq/m 3 bed - 90sq/m- 92sq/m	Yes
	1 bed	50sq/m		Yes
	2 bed	70sq/m		Yes
	3 bed	90sq/m		

4C – Ceiling heights	Minimum ceiling heights:		2.7m / 2.4m residential levels 3m ground floor / 2.7m first floor	Yes No - Variation deemed to be satisfactory for ground level and at level 1, given: - small scale commercial uses could occupy ground floor tenancies as proposed - appropriate commercial floor space is provided at ground level and thus the use of the first floor for commercial purposes is unlikely following any strata subdivision of the development.
	Habitable	2.7m		
	Non-habitable	2.4m		
	Mixed use	3.3m ground & first floor		
3F Visual Privacy	Building height	Separation	<u>Up to 4 storeys</u> 11m - habitable / non habitable 12.2m - habitable / habitable <u>Level 5</u> 11m- habitable to non-habitable 11.2m - habitable to habitable	Yes No - Plans illustrate a building separation deficiency of 6.8m at level 5 between habitable rooms centrally within the site. Fixed angled privacy screens are proposed to counter adverse privacy impacts. Fixed screens maximise visual privacy and retain appropriate amenity for future occupants. Refer to further details below.
	Up to 4 storeys	9m habitable / non habitable 12m habitable / balconies / habitable		
	5-8 Storeys	12m habitable / non habitable 18m habitable / balconies / habitable		

4A – Solar and daylight access	Living rooms + POS of at least 70% (26 of 37) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			27 of 37 (73%)	Yes
	Max 15% (6) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			Nil	Yes
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.			Max 5 units off single core	Yes
4E – Private open space and balconies	Dwelling type	Min area	Min depth	1 bed - 9.5sq/m - 13.83sq/m	Yes
	1 bed	8m ²	2m	2 bed - 10sq/m - 17sq/m	
	2 bed	10m ²	2m	3 bed - 26.43sq/m	
	3+ bed	12m ²	2.4m	Ground level units	
	Ground level, podium or similar - POS provided instead of a balcony: min area 15m ² and min depth of 3m.			- G01= 30sq/m - G02= 15sq/m - G03 = 20.5sq/m	
4B – Natural ventilation	Min 60% (23 of 37) of apartments are naturally cross ventilated in the first nine storeys of the building. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			29 of 37 apartments naturally cross ventilated (78%) 12m maximum depth to units glass line to glass line	Yes Yes
4G – Storage	Dwelling type	Storage volume		Appropriate inter unit storage provision with additional provided within basement levels	Yes
	1 bed	6M ²			
	2 bed	8m ²			
	3 bed	10m ²			

3F - Visual Privacy

To Campbell Street Properties

a) Ground level - The ground floor level of the rear building proposed on site is positioned at and slightly below existing ground level (i.e. 0.2m). One bedroom window faces the rear of the site, 6m from the rear common boundary with Campbell Street properties. A number of existing outbuildings are located within Campbell Street properties adjoining the rear boundary with the subject site.

A total of four balconies are proposed at ground level facing east towards Campbell Street properties, three being off living areas and one off a bedroom. The edge of these balconies is 6m from the common rear boundary of Campbell Street properties. Plans further illustrate that three of these balconies, those off living areas, are screened with fixed angled louvres, with nil screens provided to the bedroom balcony to unit G.02.

b) Levels 1 - 3 - Two bedroom windows at each level (total of 6) facing the rear of the site are 6m from the rear common boundary and screened with full height fixed vertical blade louvres, to obscure sightlines to the rear private open spaces of Campbell Street properties. Four balconies at each level to these units are recessed a minimum of 2.2m from the rear building alignment, with the balcony edge 6m from the common rear boundary with Campbell Street properties. Balconies are also provided with a motorised roller blind system which provides weather protection and assists in maintaining privacy between neighbours. Balconies are also provided with retractable mesh roller blinds which provide weather protection and assist in maintaining privacy between neighbours.

c) Level 4 - The eastern building line of this level is 9.1m from the common rear boundary with Campbell Street properties. The balcony edge of this level is 6.7m from the common rear boundary and is provided with a fixed planter incorporating planting capable of growing to a height of 1.5m.



Given the proposed installation of privacy screens, appropriate setback of the proposed development from the common rear boundary of the site, finished floor level of the proposed building, position of sheds in the rear yard of neighbours and periphery planting at level 5 with appropriate landscaping, the proposal as designed is deemed to be satisfactory and retains appropriate visual privacy between residential neighbours at the B4 to R3 zone interface to the rear.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	Yes	Yes - see discussion
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.1 R3 Medium Density Residential	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	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 for the purposes of 'road' as defined by RLEP 2011. 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.

4.3 Height of buildings

As per RLEP 2011, the subject site is affected by two height limits. The area illustrated in green below comprises a maximum height of 8.5m, with the remainder of the site being subject to a 16m height limitation. It is noted that nil building works are proposed within the area subject to the 8.5m height limit and as such the entire development is proposed within the portion of the site affected by the 16m height limit.



LEP map excerpt - Height limit on site

Given the above and following a manual assessment of the plans, the proposed development comprises a height as follows:

Building A (fronting Rocky Pt Road)

- Lift Overrun – 19m - 19.5m (34RL) (3m - 3.5m variation)
- Stair Overrun / Rooftop lobby – 19m (33.6RL) (3m variation)
- Top of rooftop planter – 16.7m – 17.2m (31.7RL) (0.7m - 1.2m variation)
- Roof – 15.5m - 16.5m (30.535RL) (Partially compliant / 0.5m variation)

Building B (rear of site)

- Roof – 15.1m - 15.6m (29.6RL) (Complies)
- Lift Overrun - 16.4m (30.4RL) (0.4m 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 2.5% - 21.8% 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 been addressed within Clause 4.6 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 2815sq/m. The proposal comprises a total gross floor area of 2815sq/m, illustrating a 2:1 FSR, thus complying with the provisions of this clause.

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 0.4m to the top of the lift overrun to the rear building, with more pronounced variations to the building fronting Rocky Point Road, being 0.5m to the roof - 3.5m to the top of the lift overrun. This represents a 2.5% - 21.8% 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.

A summary of the key arguments 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 proposal has been revised to reduce the overall height of the development particularly along the rear of the property.*
- *The objectives of Clause 4.3 - Height of Buildings is satisfied by the proposed development.*
- *The proposed development has taken into consideration the existing surrounding context, in particular the northern adjoining development at 250-258 Rocky Point Road and development on the western side of Rocky Point Road at 183-189 Rocky Point Road.*
- *The rear of the subject site is to be reserved for a future laneway acquisition by Council. The GFA applicable to this part of the site has been relocated from this area to the proposed building footprint, contributing to the height non compliance.*
- *The proposed additional height does not add to the overall bulk of the building given its design.*
- *The proposal will provide a high quality urban form, similar to existing developments in proximity to the site and reflects the built form desired by Council as demonstrated by the increased densities and heights along Rocky Point Road.*
- *The proposal maintains satisfactory solar access and sky exposure to neighbouring development.*
- *The proposal also satisfies the objectives of the B4 Mixed Use Zone and will permit a use that is currently accepted and envisaged 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 the site falls to the south up to 1.34m across the property. 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 0.45m to accommodate the ground floor slab, which has further been stepped to minimise building height on site.

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 the front building facing Rocky Point Road. The proposal as designed seeks to maximise amenity for future occupants via the provision of this communal rooftop open space area.

Proposed rooftop structures i.e. lift overrun, lobby, seating, 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 significantly recessed into the site i.e. 6.1m to rooftop lobby & 8m to lift overrun from Rocky Pt Road frontage, 25.8m to lift overrun of front building from new rear boundary of the site.

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, minimizing 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 & 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 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 RLEP 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 turfed and provided with shrub planting at existing side property boundaries. 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.

6.7 Stormwater

Stormwater drainage from the site is proposed to temporarily discharge to Rocky Point Road via a pump out system. Drainage via gravity to the rear is possible upon the completion of a future stormwater pipeline by Council within the future laneway to be constructed by Council at a future time.

Given the above, the proposal has been conditioned to require that upon the completion of the construction of the rear laneway and stormwater pipe, the pump out system be disconnected and all roof and surface runoff, including OSD discharge, shall be directed to the Council pipeline.

The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

6.11 Active Street Frontages

The subject site is land identified as Active Street Frontage in RLEP 2011 Active Street Frontage Map, and accordingly is subject to clause 6.11. 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. Thus, the proposal is considered to satisfy the requirements of clause 6.11.

6.12 Essential services

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

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Storage Areas	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	No - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Front Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Side Setbacks	Yes	No - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes
5.3 Mixed Use - Retail	Yes	No - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	No - see discussion

4.1.4 Soil Management

The Soil & 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.

4.1.9 Lot size and Site Consolidation - Mixed use

As per the requirements of this clause, for mixed use development with a height of 4 storeys or greater, a minimum frontage width of 18m is required. The subject site comprises a frontage of 30.79m and complies with the provisions of this clause.

4.1.9 Lot size and Site Consolidation - isolated sites

The proposed development does not result in the isolation of the adjoining property at 270 Rocky Point Road Ramsgate. This property has the potential to be incorporated with any future development upon adjoining southern lots at 272 Rocky Point Road Ramsgate. The proposal is satisfactory with regards to the requirements and objectives of this clause.

4.2 Streetscape and Site Context - General

The proposed development has been aligned and sited to physically connect to the established adjoining development upon 250-258 Rocky Point Road to the north. The proposed development continues a street wall periphery form of development, maintains a central podium courtyard and recesses the top floor of the development which fronts Rocky Point Road, akin to the adjoining approved development. The proposed development has been stepped within the centre of the site in order to accommodate the existing topography of the site and minimise the overall height of the proposal.

Given the length of the 30.7m frontage, the proposed building has been articulated in order to minimise the mass and length of building façade to Rocky Point Road. 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 white rendered concrete, glass balustrades, aluminium louvres, off form concrete and marine grade plywood. 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 - Residential Flat Buildings and Shop Top Housing Impact to Campbell Street Properties

The subject site is located to the west of Campbell Street properties. 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 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 270 Rocky Point Road

A single storey commercial building exists upon 270 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 is setback approximately 3m from its southern boundary with 272 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 270 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 Acoustic privacy

Plans indicate the provision of a 3.05m floor to floor height, which will ensure appropriate acoustic amenity is retained between inter tenancy units within the development. An Acoustic Report prepared by Koikas Acoustics dated 1 June 2016, further confirms that the proposed development can be designed to achieve appropriate internal acoustic levels in order to mitigate road traffic noise for future occupants.

Given the above, the proposal is considered to be consistent with the objectives and requirements of this clause.

4.4.7 Wind Impact

The proposal was accompanied by a Wind Assessment Report, prepared by Windtech and dated 18th January 2018. The report recommends the following wind mitigation measures be implemented on site:

a) Ground Level - *"The proposed awning which extends out to be in-line with the awnings of the current adjacent buildings, and across the entire length of the development above the pedestrian footpath along Rocky Point Road, should be effective in ameliorating any downwash effects caused by strong westerly winds impacting the façade of the development."*

b) Communal Access ways - *Communal access ways are recessed into the building form and hence are protected from the funnelling effects of southerly winds directed between the two buildings.*

c) Private Balconies - *"Private balcony of Unit 4 on Levels 1 to 3 is exposed to funnelling effects as southerly winds are directed between the two buildings. To mitigate this potentially adverse wind effect a 2m high screen is recommended along the southern edge of these private balconies."*

"The westerly winds are expected to adversely affect the corner balconies of Units 4.02 and 4.04 due to corner accelerations. The southerly winds are also expected to affect Units 4.04 and 4.07, while the north-easterly winds are expected to affect Unit 4.07."

d) Rooftop Communal Terrace - *"dense continuous planting be included along the edge of the rooftop terrace to mitigate these potentially adverse wind effects. These plants should be densely foliating,*

evergreen and capable of growing to at least 2m to ensure effective wind mitigation throughout the year."

The proposal will be conditioned to ensure compliance with the recommendations of the report. The proposal complies with the requirements and objectives of this clause.

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.

<i>Control</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Complies</i>	<i>Variation</i>
10%-30% Studio - 1 bed	4 - 12	13 x 1 bed	No	+1
50%-75% 2 bed	19-28	22 x 2 bed	Yes	-
10% - 20% 3 bed	4 - 8	2 x 3 bed	No	-2

The proposal indicates a minor non compliance with regards to the provision of both 1 and 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% (4) of the units within the development are to be provided as adaptable dwellings. Documents submitted indicate that a minimum of 4 units within the development are provided as adaptable dwellings i.e G.03 (1B Unit) / 1.05 (2B Unit) / 2.05 (2B Unit) / 3.05 (2B Unit), which complies with the requirements of this clause.

Additionally 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

The proposed development incorporates 13 x 1 bedroom / 22 x 2 bedroom / 2 x 3 bedroom units, in addition to three shops comprising a total commercial floor area of 153sq/m.

Given the above, 53 car spaces are required to service the proposed development, being 39 residential / 8 visitor / 4 commercial (2 current and 2 future spaces), 1 dedicated loading/unloading bay and 1 dedicated carwash bay. A total of 4 bicycle and 3 motorbike spaces are also required.

Plans indicate the provision of 52 car spaces incorporating a dedicated car wash bay and dedicated loading / unloading bay. This illustrates a deficiency of 1 car space on site. Further to the aforementioned, 3 accessible car spaces comprise a column obstruction. A total of 8 bicycle spaces and 3 motorbike and are provided for the proposed development.

The proposal has been conditioned to require a shared parking register for commercial and residential

visitors in order to counter the 1 car space deficiency and ensure adequate car parking is provided upon the subject site for the development.

As conditioned the proposal complies with the objectives and requirements of this clause.

4.6 Car Park Location and Design

The proposal seeks to provide a basement car parking area on site for residents and visitors with temporary access from Rocky Point Road, until such time that the rear laneway is constructed and thus the Rocky Point Road Access becomes redundant.

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 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 basement level 1. The proposal facilitates loading and unloading on site and as such satisfies the objectives of this clause.

4.6 Car Wash Facilities

Plans illustrate the provision of a dedicated car wash bay of appropriate dimensions within basement level 2. The proposal is satisfactory with respect to this clause.

4.6 Pedestrian Access and Sustainable Transport

As per the provisions of this clause 5 bicycle and 4 motorbike spaces are required to be provided for the development. Plans indicate the provision of 6 bicycle and 5 motorbike spaces on site. The proposal complies with the requirements of this clause.

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 basement level 1 of the development. 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 commercial tenancy 1, addressing Rocky Point Road. The proposal has been conditioned to ensure the booster is

screened with doors to match the proposed finishes of the development.

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 inter unit storage provision. Additional supplementary storage is proposed at basement level. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Plans illustrate the provision of central gas hot water plant proposed within basement level 1 of the development. The proposal has further been conditioned to ensure that should individual instantaneous gas hot water systems be required for residential units, that they be recessed into the built form and designed to blend into the building. The proposal is therefore consistent with the requirements of this clause.

5.2 RFB - Side Setbacks

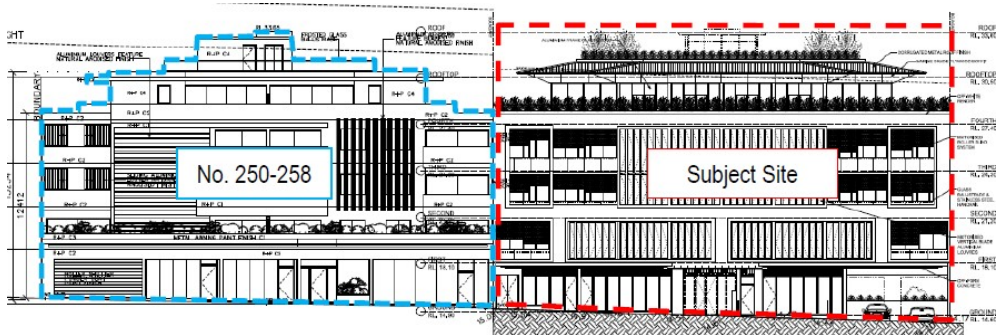
As per the requirements of this clause a minimum 3m side setback is required for buildings up to three storeys, with 4.5m side setbacks for all levels above the third storey.

Plans illustrate the following:

- a) Building Fronting Rocky Point Road - Party wall development to a height of four storeys. Building line at level 5 recessed 3.8m from both the northern and southern common boundaries.
- b) Building to the Rear - Party wall development to a height of four storeys. Level 5 recessed 3m from northern and southern common side boundaries.

The above illustrates a non compliance with respect of side setbacks to level 4 i.e. 3m side setback required, nil provided, and level 5, where by a 4.5m side setback is required and a 3m-3.8m side setback is proposed.

It is the assessing officers view that party wall construction as proposed up to level 4 is appropriate, in order to achieve consistency with the adjoining established development at 250 - 258 Rocky Point Road, provide a consistent streetscape appearance and street wall development within the Ramsgate Town Centre.



Streetscape appearance of existing and proposed development along Rocky Pt Road

Level 5 of the development fronting both Rocky Point Road and the rear of the site, has been recessed from both common side boundaries to achieve a smaller footprint and minimise the appearance of this level when viewed from the public domain and neighbouring properties.

The side setbacks as proposed provide consistency in built form with the northern neighbour, reduce the mass and bulk of the development and provide further opportunities for increased afternoon western sun in midwinter to the rear private open spaces of the Campbell Street properties.

Given the above, setbacks as proposed are deemed to be satisfactory and satisfy the objectives of this clause.

5.2 RFB - Building Entry

Plans illustrate the provision of a residential building entry from Rocky Point Road. The proposed residential entry is spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the development and the public domain. The proposal satisfies the requirements and objectives of this clause.

5.2 RFB - Lift Size and Access

As per the provisions of this clause, a minimum communal corridor width of 2m is required. Plans indicate the provision of 1.9m wide communal corridors and breezeways to both building forms, providing direct access to residential dwellings. This is a deficiency of 0.1m.

The variation as proposed is minor and is not deemed to be of a degree which would restrict or limit the functionality or ability of use of the common circulation spaces. The proposed variation is acceptable 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 a 14.1m length of the proposed building, with private open spaces directly adjoining the front boundary of the subject site.

Whilst the above mentioned setback has not been provided, 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.

The proposal is satisfactory in this regard given the above and satisfies the objectives of this clause.

5.3 Mixed Use - Side Setbacks

The matter of side setbacks has been previously discussed within this report.

5.3 Mixed Use - Retail

As per the provisions of this clause, a minimum of 10% (281.5sq/m) of the gross floor area of a mixed use development is to be for retail and/or commercial uses.

Plans illustrate the provision of 153sq/m (5.4%) of commercial floor space within the development in the form of three commercial premises fronting Rocky Point Road. Whilst this is a deficiency of 128.5sq/m the proposal provides for an active street frontage within the Ramsgate Town Centre and creates opportunity for three new commercial premises on site. Further to the aforementioned it is reiterated that the creation of the future laneway to the rear of the property would result in the removal of the driveway entrance from Rocky Point Road and thus the addition of a fourth commercial premises, 57sq/m in total area, in this location at a future time.

Given the above, the proposed deficiency in commercial floor space within the development is deemed to be 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 - Awnings

The provisions of this clause require the proposed awning to Rocky Point Road to comprise a minimum soffit height of 3.3m. Plans illustrate the provision of an awning with a soffit height of 3m. The proposal will be conditioned to require the aforementioned. As conditioned the proposal complies with the requirements of this clause.

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 provides residential carparking on site within basement levels behind a shutter with the provision of an intercom for visitor access. Commercial and visitor car parking is provided at basement level 1.

Two lifts are provided within the development and as such these are 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 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 has been notified in accordance with the provisions of Rockdale DCP 2011 and a total of five (5) submissions were received. The issues raised in the submission are discussed below:

Overshadowing to Campbell Street properties / Impact of shadow on pools within rear of Campbell Street properties

Comment: The matter of overshadowing has been previously discussed within this report.

Overlooking / Privacy impacts to Campbell Street properties / Laneway in the reserved location will result in significant privacy impacts to Campbell Street properties / 6m setback to rear boundary is insufficient / Nil planters or mechanisms to screen development from existing homes and future grant flats, villas upon Campbell Street properties

Comment: The matter of visual privacy has been discussed previously within this report. The proposal is satisfactory with respect of visual privacy.

Excessive height / Proposed height is greater than 250-258 Rocky Point Road this is unreasonable

and causes privacy and overshadowing impacts to top floor balconies of units in 250-258 Rocky Point Road

Comment: Matters relating to height, overshadowing and privacy have been considered in the assessment of the proposal and detailed previously in this report.

Excessive FSR and size / Overdevelopment of the site / Excessive bulk scale and design

Comment: Final revised plans substantially reduced the bulk, scale and height of the development and recessed the top floors of both building forms. The proposal complies with the FSR requirements for the site and is not deemed to be an overdevelopment.

SEE includes inaccurate photographs and context / 19 and 21 Campbell Street have a pool

Comment: The above it noted, however the assessment was based upon an accurate consideration of the context.

Impact of development onto large tree, its canopy and roots in rear of site is not clarified

Comment: An Arborist Report accompanied the application and seeks the retention of the Illawarra Flame and Brushbox trees along the rear boundary of the site. This matter is discussed further in 5.9 Preservation of trees or vegetation of this report.

Acoustic impact i.e. due to new residences and vehicle movements due to future lane have not been clarified

Comment: Properties to the rear adjoin the B4 - Mixed Use zone of which higher density residential is permitted. It is noted that the laneway reservation has existed for a substantial number of years. The proposal is a residential use with small commercial retail premises fronting Rocky Point Road. It is not anticipated that the development would generate or result in adverse acoustic impacts that would otherwise be anticipated within a residential area.

Insufficient car parking / Lack of loading bay / Traffic impacts and impact to local businesses / Inconvenience to local business during construction i.e. trucks taking up parking for pharmacy customers

Comment: The matter of car parking has been previously addressed in this report. As conditioned, the proposal complies with the parking requirements of RDCP 2011. The construction of the proposed development will be temporary and the developer can apply for a works zone in front of the site, via application to Council.

Inappropriate unit mix

Comment: The matter of unit mix has been discussed previously within this report.

Inappropriate size of proposed retail shops / Shops as proposed do not replace the size of existing commercial tenancies on site this is inappropriate

Comment: The proposal provides adequate commercial space within the development, incorporating 3

shops fronting Rocky Point Road. A further retail premises can be accommodated on site in the location of the proposed vehicular entrance to Rocky Pt Road, at a future time where the laneway to the rear is acquired, constructed and a new vehicular entry to the rear is created.

Concerns regarding potential damage to 270 Rocky Point Road, including water run off from proposed southern walls, construction of basement, possible debris from construction etc.

Comment: Standard conditions of consent have been imposed in relation to the requirement for a dilapidation report, vibration monitoring and a soil and water management plan etc. to safeguard neighbouring properties

Isolation of 270 Rocky Point Road Ramsgate

Comment: The above site is capable of being amalgamated with the adjoining property to the south at 272 Rocky Point Road Ramsgate. The proposal does not isolate 270 Rocky Point Road Ramsgate.

Blocking of radio / TV signals to 270 Rocky Point Road

Comment: No evidence to substantiate this claim has been provided. Notwithstanding, telecommunications companies regularly update their infrastructure to adapt to infill development.

Inappropriate side and rear setbacks

Comment: The matter of setbacks and building separation has been previously discussed in this report. Setbacks and building separation as proposed are deemed to be appropriate.

Five storey building in Dillon Street should not be used as a precedent

Comment: The proposal has been assessed against the relevant planning legislation and on its merits.

Unsafe pedestrian access given across proposed driveway to Rocky Point Road

Comment: The proposed driveway access to Rocky Point Road is not dissimilar to existing driveways along Rocky Point Road. Upon the acquisition of land to the rear of this and neighbouring properties subject to the future laneway dedication, the proposed driveway to Rocky Point Road will be closed and new vehicular entry to the future lane will be constructed.

Site not suitable for proposed development / Lack of appropriate infrastructure i.e. traffic congestion, lack of child care and disabled facilities in area

Comment: The subject site is located within the Ramsgate Town Centre, is zoned for high density development, located close to public transportation, services and amenities and is deemed to be suitable for the proposed development.

Proposal has not made provision for the future lane to be the main vehicular access to the basement

Comment: Plans illustrate the proposed laneway dedication to the rear of the site. The proposal adequately considers the provision of the future laneway to the rear of the property.

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 height limit on site, 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 proposal is permissible in the zone and provides a mix of residential and commercial tenancies, which will support the future character of the Ramsgate Town Centre.

The proposal will allow the development of the site in accordance with its environmental capacity & will provide for a high quality building that will add architectural value to the existing streetscape & future desired character of the Ramsgate Town Centre. As such it is considered that the development application is in the public interest.

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
Basement 2 DA-1.98 Issue K	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Basement 1 DA-1.99 Issue L	CMT Architects Pty Ltd	17/01/2018	17/01/2018
Ground Floor Plan DA-2.00 Issue K	CMT Architects Pty Ltd	17/01/2018	17/01/2018
Level 1 DA-2.01 Issue K	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Level 2 DA-2.02 Issue K	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Level 3 DA-2.03 Issue K	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Level 4 DA-2.04 - Issue L	CMT Architects Pty Ltd	18/01/2018	18/01/2018

Roof Plan DA-2.06 Issue H	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Elevations (East / West) DA-4.00 Issue E	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Elevations (North / South) DA-4.01 Issue D	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Section AA DA-3.00 Issue A	CMT Architects Pty Ltd	10/08/2017	05/12/2017
Section BB DA-3.01 Issue A	CMT Architects Pty Ltd	19/06/2017	05/12/2017
Section CC DA-3.02 Issue A	CMT Architects Pty Ltd	19/06/2017	05/12/2017
Section DD DA-3.03 Issue A	CMT Architects Pty Ltd	24/10/2017	05/12/2017
Schedule Colours and Finishes	CMT Architects Pty Ltd	-	06/02/2018

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 (605851M_05) 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 development application shall be submitted for the specific use/uses of the commercial tenancies. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

7. Balconies shall not be enclosed at any future time without prior development consent.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. 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.
10. 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.
11. 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.

12. Stormwater drainage from the site shall temporarily discharge to Rocky Point Road.

Where the drainage for the development relies on a pump out system to discharge stormwater to Rocky Point Road that would otherwise discharge by gravity to the rear of the site, upon completion of a stormwater pipeline by Council within the laneway to be constructed by Council in the future within the road dedication at the rear of the site the pump out system shall be disconnected and all roof and surface runoff, including OSD discharge, shall be directed to the Council pipeline.

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, 1 bedroom and 2 bedroom apartments 1 space per apartment

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

Commercial Units 1 space per 40sq/m 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. 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) Front windows/doors of ground floor tenancies 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
 20. 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.
 21. 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.
 22. Temporary dewatering of the site to construct the subsurface structure is not permitted.
 23. 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.
 24. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 25. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
 26. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
 27. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
 28. In order to ensure the design quality excellence of the development is retained:
 - i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.

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

29. 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.
30. 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 shared zone within the trafficable area and or with column obstructions are not acceptable.

(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 Small Rigid Vehicle (SRV) 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 the Parking and Loading Code.

(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.

31. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
32. Nil mechanical plant is permitted to be installed at rooftop level. All mechanical plant is to be located within the basement of the development.
33. 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).

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.

All soft fall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

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

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

34. 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.
35. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
36. The recommendations of the Arborist Report prepared by Horticultural Resources Consulting Group dated 10th May 2017 shall be implemented on site.
37. Vertical louvres upon the eastern façade of the development are to be fixed.

Prior to issue of the construction certificate

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

38. 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.

- 39. 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.
- 40. 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.
- 41. A Section 94 contribution of \$670,454.41 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 of any 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.
- 42. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
 - i. the footings of the proposed structure;
 - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
 - iii. all reinforced concrete floor slabs;
 - iv. all reinforced concrete stairs;
 - v. the piers to natural ground or rock, detailing the size and position of the piers;
 - vi. the proposed retaining wall;
 - vii. the work required to stabilise the excavation;
 - viii. the work required to stabilise the footpath area;
 - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
 - x. all structural steel work;
 - xi. first floor joists;
 - xii. fire rated ceilings/fire protective ceilings.
- 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 4 residential units, and between these units and allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. 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 shared zone within the trafficable area and or with column obstructions are not acceptable.

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. Ausgrid

The applicant shall confer with Ausgrid to determine if:

- a) An electricity distribution substation and/or the installation of electricity conduits in the footway is required.
- b) Satisfactory clearances to any existing overhead High Voltage mains will be affected.
- c) 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.
- d) The relocation of the existing electricity supply pole in the road reserve at Rocky Point Road is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Energy Australia. The applicant shall enter into a contract with Energy Australia for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

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

48. Prior to the 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>

49. 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:

- a) Construction of footpaths and streetscape works.
- b) Construction of kerb & gutter.
- c) Public domain works.
- d) Stormwater drainage works including a Gross Pollutant Trap similar to CDS Unit on the main drainage pipeline.
- e) Construction of vehicular entrances.

- f) Construction of road pavements.
- g) Construction of parking spaces using porous pavers.
- h) Line marking and signs.
- i) 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.

- 50. 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.
- 51. 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.
- 52. Prior to the issue of the Construction Certificate, a letter from a qualified practising 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 and off-street commercial vehicle facilities comply with the conditions of consent relevant to the design of the facilities.
- 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. 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 practising geotechnical engineer must:

(a) Implement all recommendations contained in the report prepared by AW Geotechnical Pty Ltd., Ref: AWG36570a, dated 28 November 2015;

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

(c) Confirm the proposed construction methodology.

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

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

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

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

55. 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. 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.
58. 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.

59. 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.
60. The 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 vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.

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 18th January 2018 are to be implemented on site, and shown on construction certificate drawings.

F). Acoustic Attenuation - The noise reduction measures specified in the Acoustic report prepared by "Koikas Acoustics" dated 21/06/2017 shall be shown in the construction plans.

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

H). The awning to the Rocky Point Road frontage of the site shall comprise a minimum soffit height of 3.3m, maximum fascia height of 600mm and minimum setback from edge of kerb of 600mm.

I). Landscape plans shall be revised to ensure consistency with approved plans.

J). The fire hydrant booster recessed into the frontage of commercial tenancy 1, shall be screened with doors which treated to match the approved finishes of the development.

Prior to commencement of works

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

61. A dilapidation survey shall be undertaken with respect of 17/19/21 Campbell Street, 270 and 250-258 Rocky Point Road Ramsgate, and adjoining Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, which could be potentially affected by the construction of this development.

Any damage caused to the aforementioned 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.

62. 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.

63. 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.

64. 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.
65. 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.

66. Trees

a) The existing *Brachychiton acerifolius* (Illawarra Flame Tree), *Lophostemon confertus* (Brushbox) and *Mangifera indica* (Mango) trees located at the rear of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. All other existing site trees may be removed.

b) Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines where possible around each of the three trees located at the rear of the site which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.

c) Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

d) 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.

e) 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.

f) Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.

g) Building materials, site residue, machinery and building equipment shall not be placed or stored under the drip line of trees required to be retained.

67. 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.
68. 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.
69. 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.
70. 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.

71. 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.
72. 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.
73. 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.

74. 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.
75. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
76. 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.
77. 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.

78. 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.

79. 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.

(i) 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.

(ii) 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 the mobile crane, concrete truck, concrete pump or other similar vehicles.

(iii) 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.

(iv) 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.

(v) 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.

(vi) Temporary Shoring/Support (EP09)

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

(vii) 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.

(viii) 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.

(ix) 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.

80. 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.

81. 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.

82. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

Prior to issue of occupation certificate or commencement of use

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

83. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
84. 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.
85. 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.
86. 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.
87. 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.
88. 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.
89. The development shall be designed and constructed to ensure that both the long-term vehicle access ramps (from the future rear laneway) and temporary access ramps (from Rocky Point Road) are in place prior to the issue of the Occupation

Certificate.

The development shall achieve temporary vehicle access to the site from a temporary vehicular entrance on Rocky Point Road. The long-term vehicle access arrangements are from the rear laneway. Upon completion of construction by Council or its agent of a sealed road carriageway connecting the public road dedication at the rear of the site to either Meurants Lane or Dillon Street or both Meurants Lane and Dillon Street the use of the temporary access arrangements shall cease at which time the long-term vehicle access arrangements are to be used.

The long-term basement ramp arrangements are to be closed to traffic during use of the temporary access arrangements and made safe until such time as the rear access lane is constructed and access is gained from the rear laneway. Once the long-term vehicle access arrangements are utilised, the temporary vehicle access arrangements are to be dismantled. The dismantling of the temporary ramp system shall be undertaken in sequence to ensure that manoeuvring within the basement is achieved in accordance with Australian Standards.

A Development Application is required to be submitted for the construction and use of an in-fill ground floor commercial tenancy.

90. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
91. Prior to the issue of the Occupation Certificate a positive covenant, restriction or other legal instrument shall be registered on the title of the property requiring the owner(s) of the property, or Strata Plan as may be the case, to:
 - (1) Cease the use of the temporary vehicular entrance from Rocky Point Road and commence use of the long term vehicular entrance at the rear upon completion of construction by Council or its agent of a sealed road carriageway connecting the public road dedication at the rear of the site to either Meurants Lane or Dillon Street or both Meurants Lane and Dillon Street.
 - (2) Maintain landscaping in the public road dedication at the rear of the development until such time as commencement of construction by Council or its agent of a sealed road carriageway connecting the public road dedication at the rear of the site to either Meurants Lane or Dillon Street or both Meurants Lane and Dillon Street.
 - (3) Require the owner(s) of the property, or Strata Plan as may be the case, to maintain fencing along the boundaries of the road dedication with that of adjoining land owners, until such time as commencement of construction by Council or its agent of a sealed road carriageway connecting the public road dedication at the rear of the site to either Meurants Lane or Dillon Street or both Meurants Lane and Dillon Street.

The prescribed authority of the positive covenant, restriction or other legal instrument shall be Bayside Council.

92. Prior to the issue of the Occupation Certificate, the owner of the site shall enter into an agreement with Council, which ensures that the Owner or Body Corporate of the development maintain the land to the rear of the property to be dedicated as laneway, as per this consent. The agreement shall stipulate that the owner / body corporate shall be responsible for the maintenance of this land, until such time that Council requires the land for the construction of the future laneway.

93. Lots 32, 33 and 34 of DP 2032, 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.
94. 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.
95. 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.
96. 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.
97. 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.
98. 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.
99. The dedication to Council of a 6 metre wide strip of land along the entire 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.

100. Two (2) 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.
101. 39 Residential off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and 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.
102. 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.
103. 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.

104. 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.
105. 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 01/06/2016 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.
106. 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.
107. 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.
108. 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.
109. 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.
110. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
111. 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.

112. 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.
113. 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.

114. 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.

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.

115. 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.
116. 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 Certificate.
117. The subdivision is to occur in accordance with this consent any subsequent Section 96 modifications, which have not yet been satisfactorily completed prior to release of the Subdivision Certificate.
118. 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.
119. 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.

120. 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.sydneypwater.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.

Integrated development/external authorities

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

121. *Roads and Maritime Service of NSW*

The following conditions are specific to the Roads and Maritime Service of NSW:

1. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Rocky Point Road boundary.
2. The design and construction of the kerb and gutter crossing on Rocky Point Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).
Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.
A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
3. The proposed vehicular access on Rocky Point Road shall be physically restricted to left in and left out movements only, by means of angling and splaying the entry and exit driveways and provision of a triangular raised median within the driveway (within the property boundary) to prevent right turns.
4. Entry, Exit and No Right Turn signs are to be installed at the crossover at no cost to Roads and Maritime.
5. All demolition and construction vehicles are to be contained wholly within the site.
6. All works and signposting associated with the subject development, including any utility adjustment/relocation works, shall be at no cost to Roads and Maritime.
7. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement

of works on site. Details should be forwarded to:

Suppiah.THILLAI@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

8. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to: Project Engineer,
External Works Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124.

Telephone 8849 2114

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

Roads Act

122. The design and construction of the gutter crossing shall be in accordance with RTA requirements. Details of these requirements should be obtained from RTA's Project Services Manager, Traffic Projects Section, Blacktown (Ph 02 8814 2144).

Detailed design plans of the proposed gutter crossing are to be submitted to the RTA for approval prior to the commencement of any road works.

It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RTA.

123. 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.

124. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:

- i) construction of a concrete footpath along the frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance/s;
- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
- v) construction of paving between the boundary and the kerb;
- vi) removal of redundant paving; and
- vii) construction of kerb and gutter.

- 125. 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.
- 126. 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.
- 127. 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.
- 128. 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.

- 129. All works associated with the proposed development shall be at no cost to the RMS.
- 130. 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.

131. The consent, pursuant to Section 139 of the Roads Act 1993, to construct a vehicular entrance from Rocky Point Road and use the vehicular entrance for the purposes on access to the site is temporary, and will cease upon completion of the construction by Council of a public road at the road reserve dedication at the rear of the site and activation of the rear lane access driveway. Upon completion of the road construction works Council will issue a notice pursuant to Section 140 of the Roads Act 1993, to revoke the approval to gain access from Rocky Point Road, at which time the owner(s) of the property will be liable for costs in relation to the removal of the vehicular entrance and gutter crossing and the restoration of the footpath and gutter to standards as specified by Council.
132. The consent, pursuant to Section 139 of the Roads Act 1993, to construct a vehicular entrance from Rocky Point Road and use the vehicular entrance for the purposes on access to the site is temporary, and will cease upon completion of the construction by Council of a public road at the road reserve dedication at the rear of the site and activation of the rear lane access driveway. Upon completion of the road construction works Council will issue a notice pursuant to Section 140 of the Roads Act 1993, to revoke the approval to gain access from Rocky Point Road, at which time the owner(s) of the property will be liable for costs in relation to the removal of the vehicular entrance and gutter crossing and the restoration of the footpath and gutter to standards as specified by Council.

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

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to

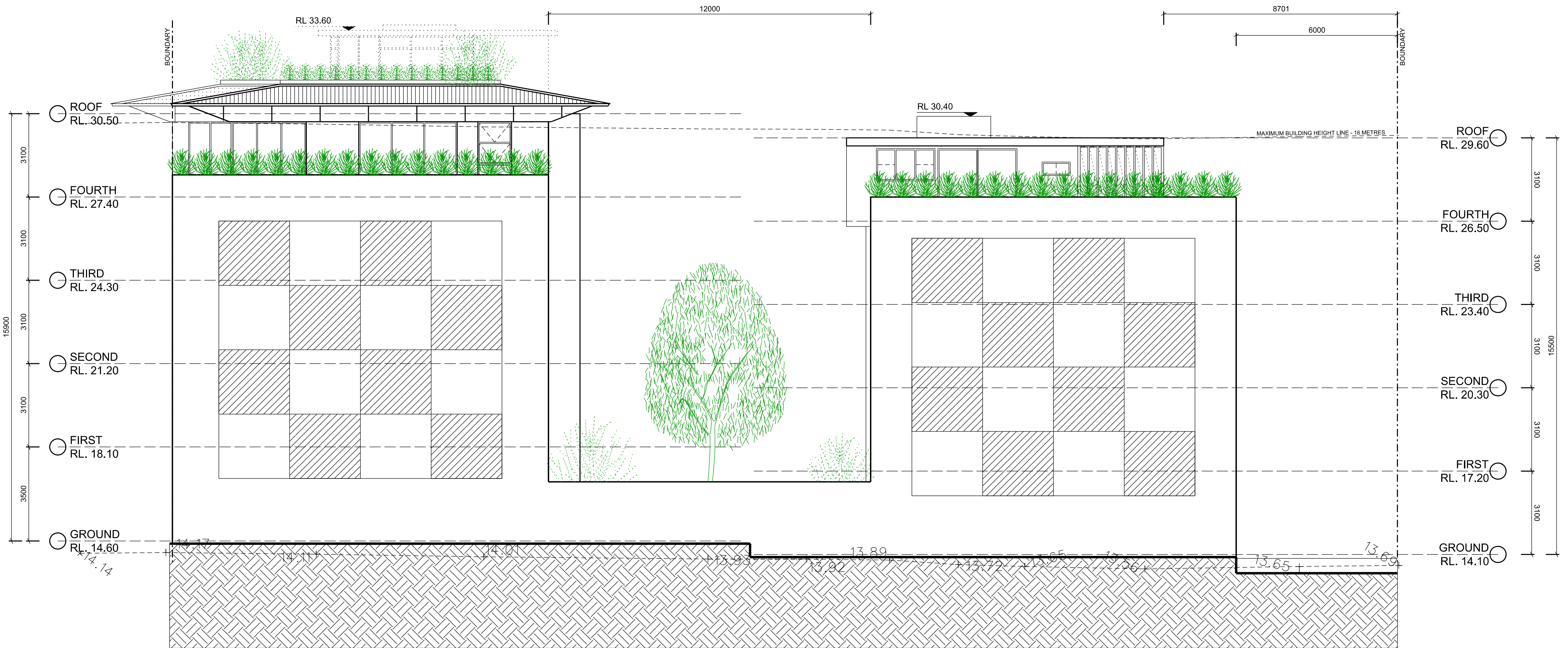
Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- e. 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

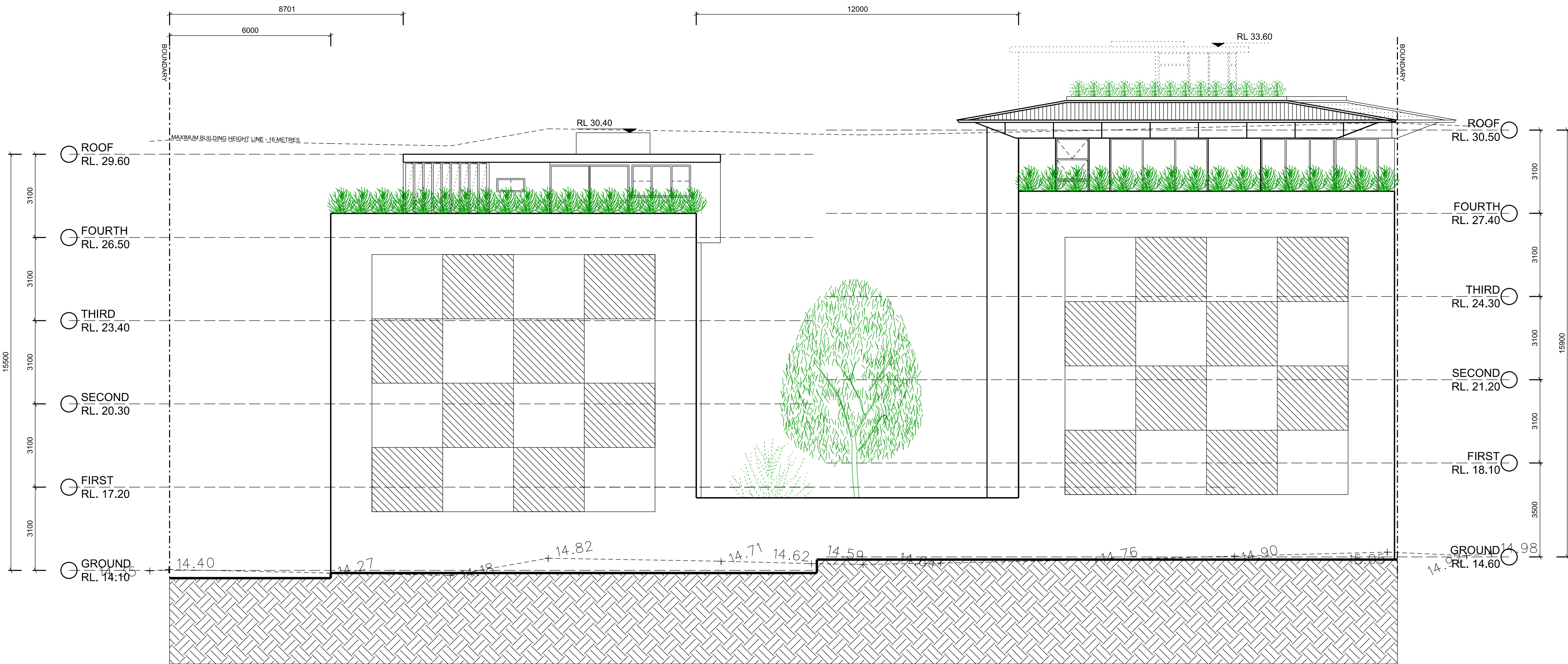
All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the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

- f. 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.
- g. 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.
- h. 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".

- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.



SOUTH ELEVATION



NORTH ELEVATION

Notes
Drawings in this set are not for construction.
Do not scale from drawings.
All dimensions to be checked on site prior to commencement of work.
All discrepancies to be brought to the attention of the Architect.
Larger scale drawings and written dimensions take preference.
This drawing is copyright and remains the property of CMT Architects Australia Pty Ltd, and must not be retained, copied or used without the prior written authority of the author.

Building Elements	Material	Detail
Internal walls	Concrete + Furring Channel + Gypsum	R15 Bulk Insulation
External walls with locks	Plasterboard on studs	
Common walls between units and the street	Concrete + Furring Channel + Gypsum	R15 Bulk Insulation
Common walls between units	Concrete	
Common wall between unit and street/terrace	Concrete + Furring Channel + Gypsum	R15 Bulk Insulation
Ceiling	Plasterboard	R15 Bulk Insulation to ceiling with metal roof above
Flooring	Concrete	R15 Bulk Insulation to suspended floor made up to levels L0L, L1L, L2L, L3L, L4L, L5L, L6L, L7L, L8L, L9L, L10L, L11L, L12L, L13L, L14L, L15L, L16L, L17L, L18L, L19L, L20L, L21L, L22L, L23L, L24L, L25L, L26L, L27L, L28L, L29L, L30L, L31L, L32L, L33L, L34L, L35L, L36L, L37L, L38L, L39L, L40L, L41L, L42L, L43L, L44L, L45L, L46L, L47L, L48L, L49L, L50L, L51L, L52L, L53L, L54L, L55L, L56L, L57L, L58L, L59L, L60L, L61L, L62L, L63L, L64L, L65L, L66L, L67L, L68L, L69L, L70L, L71L, L72L, L73L, L74L, L75L, L76L, L77L, L78L, L79L, L80L, L81L, L82L, L83L, L84L, L85L, L86L, L87L, L88L, L89L, L90L, L91L, L92L, L93L, L94L, L95L, L96L, L97L, L98L, L99L, L100L, L101L, L102L, L103L, L104L, L105L, L106L, L107L, L108L, L109L, L110L, L111L, L112L, L113L, L114L, L115L, L116L, L117L, L118L, L119L, L120L, L121L, L122L, L123L, L124L, L125L, L126L, L127L, L128L, L129L, L130L, L131L, L132L, L133L, L134L, L135L, L136L, L137L, L138L, L139L, L140L, L141L, L142L, L143L, L144L, L145L, L146L, L147L, 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BASIC COMMITMENTS NOTES * TO BE READ IN CONJUNCTION WITH APPROVED BASIX REPORT *				
WATER				
Fixtures	All Shower Heads	All toilet flushing systems	All kitchen taps	All bathroom taps
	1 star or better (0.5 L/min)	4 star	5 star	5 star
Appliances:	Dishwashers - 4.5 star water rating			
	Fire sprinkler - Configure so that fire sprinkler test water is contained within the fire sprinkler system for re-use, rather than disposal.			
ENERGY	Hot water system - Gas Instantaneous, 5 Star			
	Bathroom ventilation system: Individual fan, ducted to facade or roof manual switch on/off only			
	Kitchen ventilation system: Individual fan, ducted to facade or roof manual switch on/off only			
REFER TO APPROVED BASIX	Laundry ventilation system: Individual fan, ducted to facade or roof manual switch on/off only			
	Cooling system: air-conditioning 1 Phase - EER > 3.5 3 star living only			
	Heating system: air-conditioning 1 Phase - EER > 3.5 3 star living only			
	Artificial lighting: As per BASIX			
	Natural lighting: As per BASIX			
	Appliances:			
	Gas cooktop & electric oven in the kitchen of the dwellings			
	Dishwashers: 3.5 star energy rating			
	Clothes dryers: 2 stars			
	Indoor or sheltered clothes drying line to be provided			
	Alternative energy supply: Photovoltaic system Rated electrical output (mW): 100 peak kW Refer to the BASIX BASIX Report			

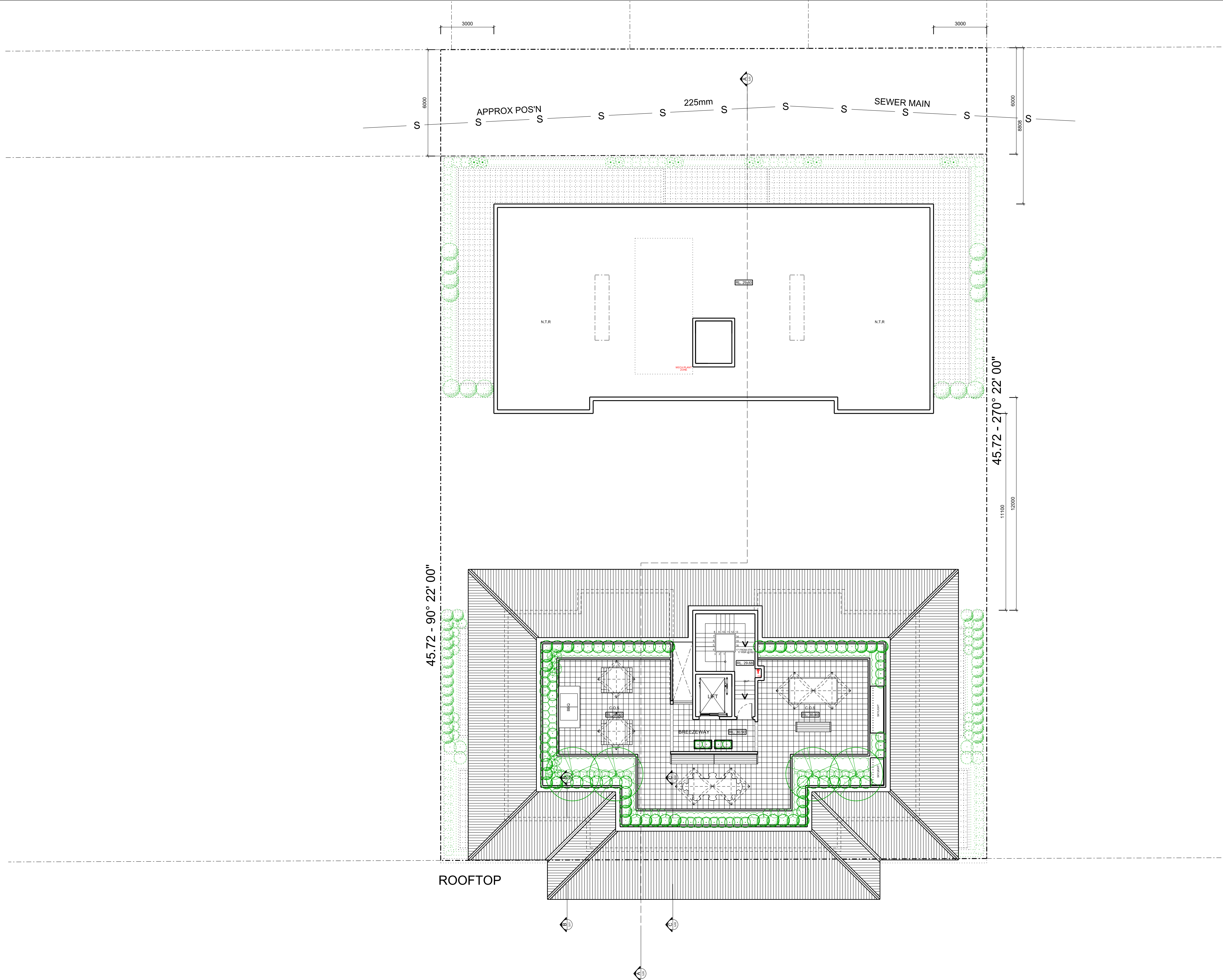
B	13.02.18	Additional Dimensions - For Submission	AS
A	10.08.17	Issued for DA Submission	KG
Issue	Date	Description	By

DA SUBMISSION

SECTION AA

Design File Ref: Arch/Active/262 Rocky Pt Rd/02.DA Feb 2017/01.Drawings/01.Architecturals

Design Architect: Chris Tsioulos - Reg. No. 5143
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Larger scale drawings and written dimensions take preference.
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Building Elements	Material	Detail
External walls	Concrete + Furring Channel + Gypsum	RL 3 Bulk insulation
Internal walls within Units	Concrete or masonry	RL 3 Bulk insulation
Common walls between units and the carpark	Concrete + Furring Channel + Gypsum	RL 3 Bulk insulation
Common walls between units and the carpark	Concrete	RL 3 Bulk insulation
Common walls between units and the carpark	Concrete + Furring Channel + Gypsum	RL 3 Bulk insulation
Ceilings	Plasterboard	RL 3 Bulk insulation to ceiling with metal roof above
Floors	Concrete	RL 3 Bulk insulation to suspended floor voids or to units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 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Revised Clause 4.6 – Exceptions to Development Standard - Height

Mixed Use Development at

Nos. 262-268 Rocky Point Road, Ramsgate

Prepared for:

Tascam Pty Ltd

C/- CMT Architects Australia

Unit 1, 32-36 Premier Street

KOGARAH NSW 2217

Prepared by:

GSA PLANNING

Urban Design, Environmental & Traffic Planners

(A.B.N 18 003 667 963)

JOB NO. 16061

February 2018

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CLAUSE 4.6 – EXCEPTION TO DEVELOPMENT STANDARDS

APPLICANT'S NAME: Tascam Pty Ltd C/- CMT Architects Australia
SITE ADDRESS: No. 262-268 Rocky Point Road, Ramsgate
PROPOSAL: Construction of a New Mixed Use Development

1. (i) **Name of the applicable planning instrument which specifies the development standard:**

Rockdale Local Environmental Plan (LEP) 2011

(ii) **The land is zoned:**

B4 Mixed Use and R3 Medium Density Zones

(ii) **The number of the relevant clause therein:**

Clause 4.3 – Height of Buildings

2. **Specify the nature of Development Standard sought to be varied and details of variation:**

Clause 4.3 in the Rockdale LEP refers to the accompanying height map that identifies a maximum building height of 16m for the subject site. The proposal will have a maximum height of between 14m and 19.3m which exceeds the development standard (see Figures 1 and 2).

The change in height is a function of the topography which slopes 0.84m south along Rocky Point Road and results in a height of between 14m and 19.3m at the Rocky Point Road street frontage. In addition the site has a fall of 0.71m along the rear boundary which results in a height of between 14.3m and 16m towards at the rear boundary.

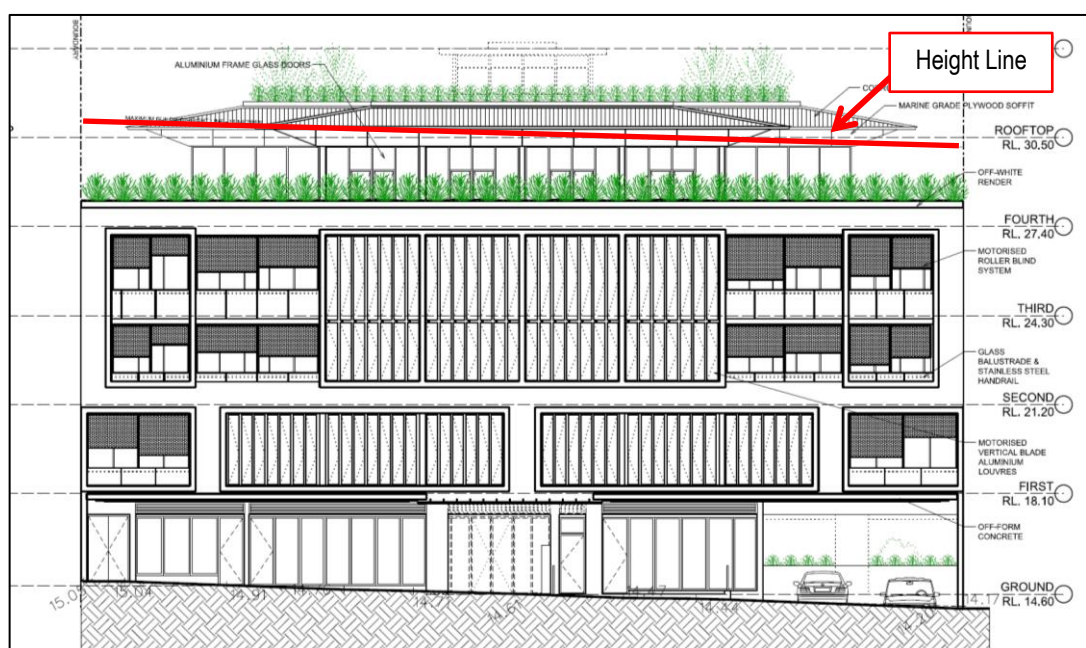


Figure 1: Street Elevation of the Subject Site and Height Line

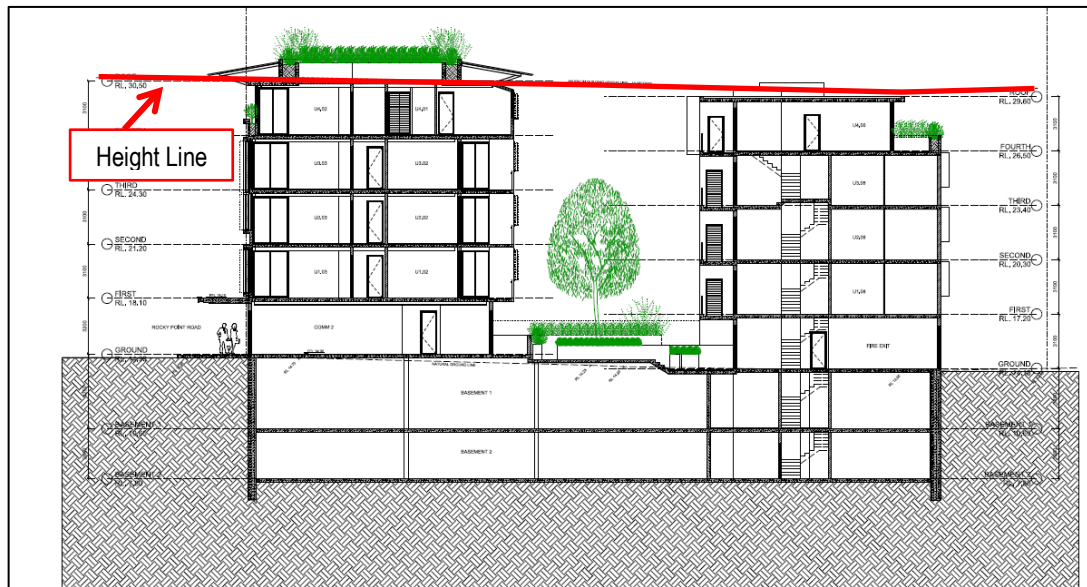


Figure 2: Long Section of the Subject Site and Height Line

3. Consistency with Objectives of Clause 4.6

It is noted that the objectives of Clause 4.6 seek to recognise that in particular circumstances, strict application of development standards may be unreasonable or unnecessary. The clause provides a means by which a variation to the standard can be achieved. The objectives of Clause 4.6 and our planning response are stated, inter alia:

- (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.

The non-compliance primarily relates to the roof structure and planter boxes at the street elevation (see Figures 1 and 2). The proposal has been revised to reduce the overall height of the building, particularly at the rear boundary (see Figure 3). Previously, the proposal has a height between 19.8m and 20.48m at the rear, which has now been reduced to comply with the standard, with a height of between 14.3m and 16m.

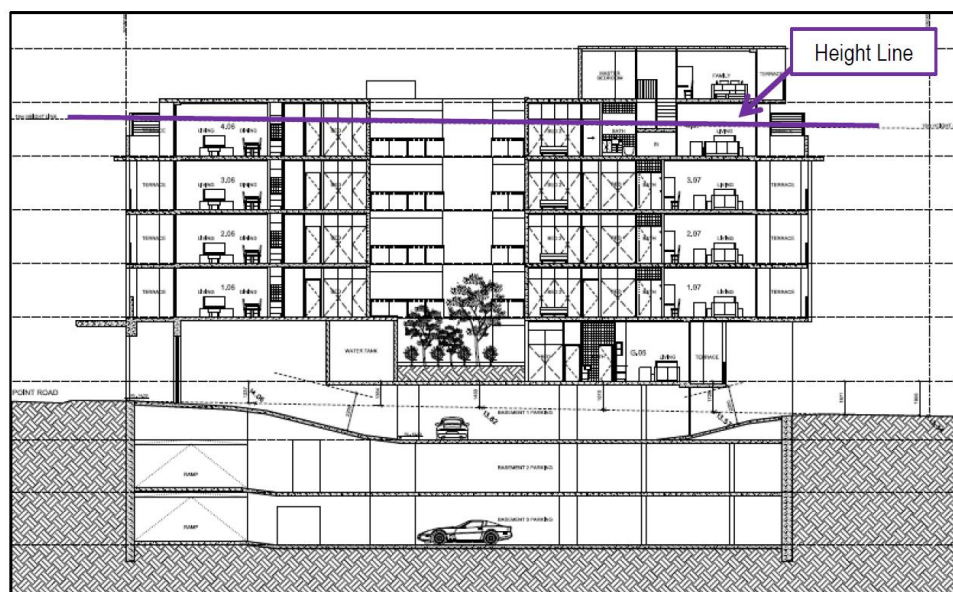


Figure 3: Previously Proposed Long Section and Height Line

The scale of the surrounding development has been taken into account to design a building that is contextually appropriate in the streetscape. As the building is consistent with the existing residential developments along Rocky Point Road and replaces existing commercial uses, the development will achieve better outcomes for the site and flexibility of the development standard should be considered in this instance.

4. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request is required when seeking to vary a development standard, along with justification of the contravention. The clause is stated, inter alia:

- (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.*

The following sections will outline why, in our opinion, the development standard is unreasonable and unnecessary and will set out the planning justification for the variation.

5. Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to provide justification that strict compliance with the height requirement is unnecessary and unreasonable in the exceptional circumstances of the case. In *Wehbe v Pittwater Council* (2007) NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. The Court's recent decision in *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90 has altered the way the five tests ought be applied, requiring justification beyond compliance with the objectives of the development standard and the zone. That is, more than one of those five grounds is now arguably required to be made out.

It is our opinion that the proposal satisfies a number of the five tests established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance.

The relevant tests will be considered below.

Test 1 – The objectives of the standard are achieved notwithstanding non-compliance with the standard

As indicated, this request seeks to vary the application of Clause 4.3 to the subject development. It is our opinion that the objectives of the height of buildings development standard are satisfied, notwithstanding the non-compliance.

Objective (a) - to establish the maximum limit within which buildings can be designed and floor space can be achieved

The proposed development will be designed to be compatible with the adjoining mixed use development. As indicated in the Statement of Environmental Effects (SEE), the design of the proposal has taken into consideration the scale of the site, the adjoining development to the north at Nos. 250 - 258 Rocky Point Road, and the new mixed use development that is being constructed on the opposite side of Rocky Point Road at Nos. 183 – 189 Rocky Point Road.

Furthermore the 6m rear setback acquired for a Council laneway would have been utilised for residential GFA. Therefore this resulted in relocating the GFA to another level adding to the proposal and contributed to the height non-compliance.

The revised scheme has considered the DRP comments and advice from council planners and has accordingly reduced the overall height, removing the 6th floor at the rear boundary. The revised design only results in non-compliance at the front of the building, relating to the roof and planter box. The inclusion of the planter box above the roof structure will present an appealing streetscape appearance from Rocky Point Road and is not considered to add to the overall bulk of the building.

The height and density of the proposal is considered to be an appropriate form of development, having regard to the surrounding context and satisfies objective (a).

Objective (b) - to permit building heights that encourage high quality urban form

The proposed development will provide high quality urban form that is similar to existing contemporary mixed use developments on adjoining sites and in surrounding streets. While the built form of the proposal exceeds the development standards that apply to the site, the scheme will reflect the emerging urban character and the desired built form desired by Council as demonstrated by the increased densities and heights along Rocky Point Road.

The commercial tenancies at the ground floor will result in the building having an active street frontage and will maintain the commercial character of the site. At the upper levels, the building design incorporates balconies and horizontal louvres on both the front and rear elevations (see Figure 3) on the following page. It is our opinion that the proposed contemporary design and detailing of the building will make a positive contribution to the streetscape. Accordingly, in our opinion, the proposal will satisfy objective (b).



Figure 3: Proposed Streetscape Presentation of the Subject Site

Objective (c) - to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain.

As indicated in Section 5 of the SEE, the proposed development has been designed to minimise adverse environmental impacts on the use and enjoyment of adjoining residents.

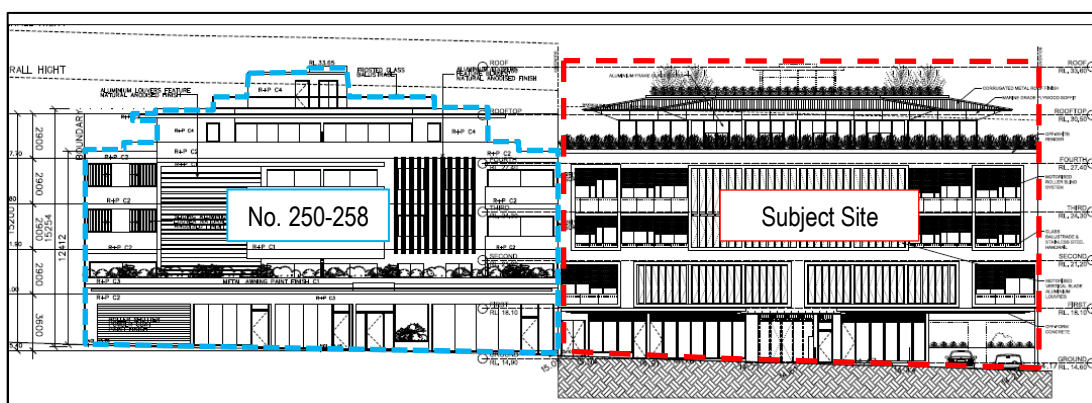
The revised design has lowered the overall building height which will improve the solar access to adjoining properties. The proposal will provide sufficient separation distance between adjoining developments and the areas of non-compliance at the front of the building will maintain adequate solar access to neighbouring properties throughout the day.

Accordingly, in our opinion the proposal maintains satisfactory solar access and sky exposure to neighbouring development and hence objective (c) is satisfied.

Objective (d) - to nominate heights that will provide an appropriate transition in built form and land use intensity.

The proposal is located in an area that is in a state of transition and it is likely that a significant portion of the existing ageing commercial building stock will be redeveloped in the coming years. In our opinion, the proposal will assist in advancing the revitalisation of this section of Rocky Point Road in accordance with the desired future character objectives established by Council. The scheme has also been revised to incorporate comments made at the DRP, as well as advice from council planners.

The proposal will also provide a contemporary five storey mixed use building that will be of a height and built form that complements existing and emerging contemporary development in the locality. As mentioned, the proposal will present a similar bulk and scale to the adjoining mixed use development at Nos. 250-258 Rocky Point Road and Nos. 183 – 189 Rocky Point Road (see Figure 4) on the following page.



In our view, given the subject site is within a mixed-use zone, the proposed mix of land uses is appropriate for the site and is compatible with the zone. The proposal incorporates a number of residential units, of varying sizes, which will contribute to the housing needs of the community within the existing medium density residential environment. The subject site is also well serviced by public transport. Furthermore there are not likely to be adverse amenity impacts on adjoining properties as a result of the proposal and the relevant matters are addressed in the SEE. Accordingly, in our opinion, the proposal satisfies the relevant objectives of the B4 Mixed Use Zone.

In our opinion, the proposal also satisfies the objectives for Height of the Rockdale LEP. The proposal is considered to achieve the desired future character of the locality and is similar in scale and form to a number of developments that have been approved by Council. As indicated, in our opinion the proposal will provide a scale and context that relates well to nearby developments, this includes Nos. 250- 258, 236 and 183-189 Rocky Point Road.

It is in our opinion that the underlying purpose outlined above, is to present a building that is appropriate to the height, context and character of the area would not be achieved if strict compliance with the building height was required.

6. There are sufficient environmental planning grounds to justify contravening the development standard.

The proposal will provide a contemporary mixed use development that is considered to be consistent with the existing and desired future character of the area. The proposal also satisfies the objectives of the B4 Mixed Use Zone and will permit a use that is currently accepted and envisaged along Rocky Point Road. As important, the proposal is unlikely to adversely impact the amenity of the adjoining dwellings by way of overshadowing, privacy or view impacts.

In our opinion, the imposition of the development standard would interfere with the proper management, refurbishment and general improvement to the environment on the subject site. The proposal will more economically utilise the site to provide new residential accommodation that is in demand in the locality and satisfies the objectives for height under the current LEP.

The development standard would hinder the orderly and economic use of the land by the proposed development. If the standard is set aside, it would enable the construction of a new residential flat building to be facilitated.

7. Clause 4.6 (4) Requirements

Sufficient written justification has been provided under subclause (3) justifying that the request for variation is minor and is the direct result of the sites sloping topography. The proposal will provide additional high quality residential accommodation in the locality, which is consistent with State Government and Council policies.

The development is consistent with both the streetscape character and maintains the heights, design and mixed use aspects of the surrounding developments. The proposed development is accessible to transport, employment and recreational activities are compelling reasons for the development to be supported, notwithstanding the minor height non-compliance.

It is our opinion that the proposed variation under clause 4.6 is appropriate in the circumstances of the case and should be supported.

8. Clause 4.6(5) Requirements

The Council or the Secretary, as the concurrence authority, is required to consider the following:

- (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.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance is considered to provide a public benefit as it will facilitate sympathetic medium density development which will contribute to meeting the demand for housing in the area.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the emerging character of the area and is, in our opinion, in the public interest.

MATERIALS & FINISHES - 262-268 Rocky Pt Rd - Ramsgate



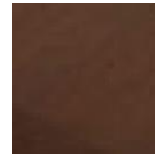
a paint to concrete
by TAUBMANS



b aluminium framed balustrades
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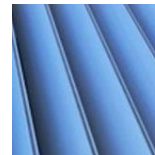
c aluminium framed glazing
(clear glass & anodised) by TREND3



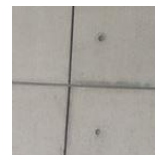
d Marine Grade Plywood
by Plymaster



e Retractable Mesh Blinds
by Shadesystems



f Vertical Louvres
(anodised aluminium) by SCREENMASTER



g Off Form Concrete