

---

**Bayside Planning Panel**

**27/03/2018**

Item No	<b>6.2</b>
Application Type	Development Application
Application Number	DA-2016/150
Lodgement Date	22 October 2015
Property	<b>401-405 Princes Highway, Rockdale</b>
Owner	Mr & Mrs Ibrahim & Ibrahim Pastry Pty Ltd
Applicant	Architecture & Building Works Pty Ltd
Proposal	Integrated Development - Construction of a seven (7) storey mixed use development comprising 39 residential units, two (2) commercial units and four (4) levels of basement parking
No. of Submissions	One (1)
Cost of Development	\$13,103,720
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-2016/150 for the construction of a seven (7) storey mixed use development comprising 39 residential units, two (2) commercial units and four (4) levels of basement parking at 401-405 Princes Highway Rockdale, be subject to a DEFERRED COMMENCEMENT consent, pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and satisfaction of the following matters:

Sydney Trains

Written correspondence shall be submitted to Council from Sydney Trains which confirms the satisfaction of the following Sydney Trains requirements:

- a. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
- b. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- c. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.

- d. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- e. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

#### Telstra

- a. The Deed of Agreement between Telstra and the Applicant to modify easements benefiting Telstra upon the site, shall be executed and all associated easements, subject of this agreement, shall be modified on the title of the property. Copies of proof of execution of the aforementioned, relevant instruments and registration of these instruments with NSW Land Registry Services is to be submitted to Council.

#### Bayside Council

- a. The 0.9m Right of Foot Way easement, spanning the depth of the site for the entire frontage to Fox Lane, benefitting Bayside Council, shall be modified on title, increased to 1.2m and relocated in the position of the new footpath as illustrated on the approved ground floor plan. A Subdivision Certificate shall be submitted to and approved by Council to this effect. Proof of registration with NSW Land Registry Services is to be submitted to Council.
- b. Plans, details and specifications of any proposed telecommunications facilities to be erected upon and / or attached to the development shall be submitted to Council for review and approval. Should nil telecommunications facilities be sought to be erected upon the subject site and / or attached to the development, correspondence from the Telstra confirming the aforementioned is to be submitted to Council.
- c. Architectural plans shall be amended as follows and submitted to Council for review and endorsement:
  - Accessible car spaces within basement levels are to be relocated to provide safe and direct access to lift cores with no cross overs of vehicle manoeuvring areas.
  - An internal interconnecting corridor be provided between the lift cores within the building at level 3 or 4.
  - Internal building access to be provided between the loading / unloading area and the Fox Lane residential lobby.
- d. Concept civil engineering plans in relation to the widening of Fox Lane shall be submitted to Council for approval by Councils Coordinator Public Domain as follows:
  - i. Fox Lane shall be re-designed as a two-way lane.
  - ii. A 1.2m wide footpath shall be provided on the northern side of the lane adjoining the site.
  - iii. Widening of Fox Lane fronting Princes Highway shall be designed as an intersection with all necessary traffic control devices and intersection

geometric design requirements considering frontage road speed of 60 Km/h.

- iv. Sight distance at access and minimum sight lines for pedestrian safety.
- v. Desirable minimum radius turning path in accordance with the Austroads templates covering turning speeds of 5 km/h to 15 km/h.
- vi. Clearance to swept paths of turning vehicles. At least 600m from kerb to Awning or structure.
- vii. Vertical height clearance minimum 4.5m.

The above details shall be accompanied by a design certificate form a Chartered Civil Engineer with concept civil engineering plans.

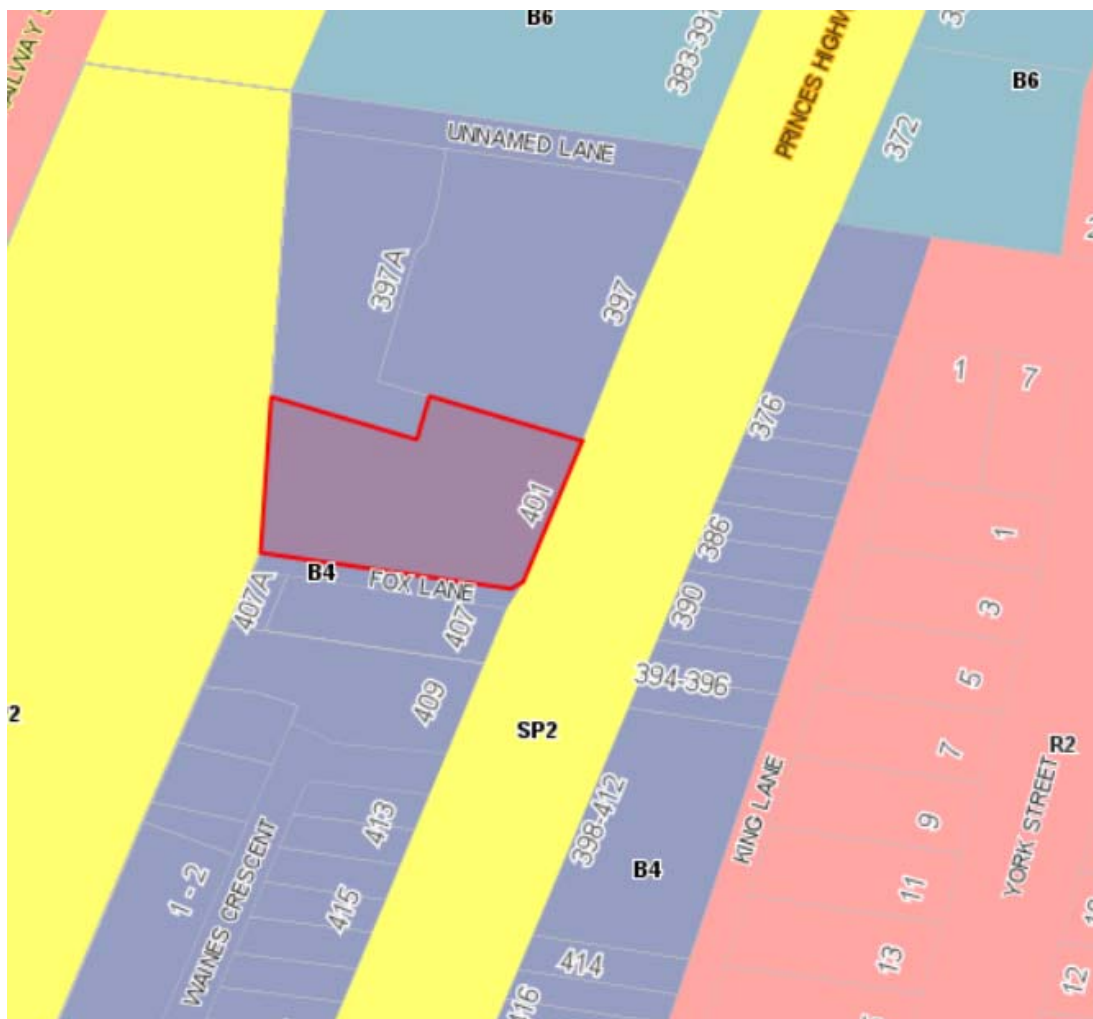
The period of the Deferred Commencement is twelve (12) months from the date of determination.

- 3 That the objector be notified of the Bayside Planning Panel's decision.
- 

## **Attachments**

1. Planning Assessment Report
  2. Bayside Planning Panel Meeting 12/09/2017 Item 5.2
  3. Revised Clause 4.6 – Exception to Development Standard
  4. Revised Streetscape Elevation
  5. Revised Site Plan
  6. Revised North Elevation
  7. Revised West Elevation
  8. Revised East Elevation
  9. Revised South Elevation
  10. Revised Roof Plan
  11. Revised Section AA
  12. Revised Photomontage
-

## Location Plan





# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/150
<b>Date of Receipt:</b>	22 October 2015
<b>Property:</b>	401 Princes Highway, ROCKDALE (Lot 100 DP 1097898)
<b>Owner(s):</b>	Mr Ibrahim Ibrahim Mrs Pelin Ibrahim Ibrahim Pastry Pty Ltd
<b>Applicant:</b>	Architecture & Building Works Pty Ltd
<b>Proposal:</b>	Integrated Development - Construction of a seven (7) storey mixed use development comprising 39 residential units, two (2) commercial units and four (4) levels of basement parking
<b>Recommendation:</b>	Deferred commencement
<b>No. of submissions:</b>	One (1)
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	6 March 2018

### Key Issues

---

On the 12 September 2017 the proposal for the construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking was presented to the Bayside Planning Panel for determination with a recommendation for Refusal. The BPP determined as follows:

- 1. That the matter be deferred to enable the applicant the opportunity to submit amended plans to address the concerns in the officer's report. The amended plans and supporting documentation, including a materials, colours and finishes board, shall be submitted by 17 November 2017.*
- 2. That the objectors be advised of the Bayside Planning Panel's decision.*

Amended plans and information were submitted to Council following 17th November 2017, including a materials board as requested by the BPP. Key changes undertaken include a significant reduction in height from 8 - 11 to a total of 7 storeys, reduction in density from 57 to 39 units, reduction in car parking provision on site and the satisfaction of SEPP 55 and BASIX requirements. Amended plans and information form the basis of this planning assessment.

A number of easements burden the site, these benefit Telstra and Bayside Council. Basement levels and the first floor of the development protrude into easements which are required by Telstra to ensure unobstructed access and clearance to the Telstra Exchange Facility adjoining the site to the north west. To date the applicant has not provided Council with an executed deed of agreement, which confirms that Telstra agree to modify and / or remove these easements, in order to enable the

proposed design to proceed. Given the aforementioned, the proposal is subject to Deferred Commencement conditions requiring the submission of an executed Deed of Agreement to Council, prior to the activation of the consent.

The proposal further seeks to vary an existing right of footway easement, along Fox Lane, benefitting Bayside Council. In relation to this matter, the proposal is subject to Deferred Commencement Conditions, which require that this easement be relocated in the position of the new footpath and that proof of registration be submitted to Council prior to the activation of the consent.

Plans, details and specifications of proposed telecommunications facilities to be erected upon and / or attached to the development have not as yet been submitted to Council. Notwithstanding, this also forms part of the Deferred Commencement Condition, to be satisfied by the applicant prior to the activation of the consent. Where nil telecommunications facilities are to be installed, correspondence from Telstra to this effect is to be submitted to Council.

A maximum height limit of 22m applies to the subject site as per the provisions of Clause 4.3 - Height of Buildings Rockdale LEP 2011. The proposed development breaches the height limit on site by 0.14m - 4m and represents a 0.6% - 18% proposed variation to the maximum permissible height limit for the site. The proposed height variation as sought by the applicant is satisfactory for the reasons outlined within this report and is supported on this basis, as detailed within Clause 4.6 - Exceptions to Development Standards within this report.

The proposal does not provide an interconnecting communal corridor within the building between the two lift cores, resulting in proposed adaptable units being serviced by a single lift. Concern is raised in relation to access, in the event that a lift is out of order. As such the proposal has been conditioned as part of the Deferred Commencement requirements, that an interconnecting corridor be provided between the lift cores within the building at level 3 or 4. This will require the redesign of units 3.3/3.4 or 4.3/4.4 and may result in the loss of up to 2 residential units within the development. Facilitating access for persons with a disability / mobility impairment is not deemed to be unreasonable for a development of this size. As conditioned the proposal is deemed satisfactory.

The proposal in its final revised scheme is deemed satisfactory with respect of the objectives of relevant planning instruments and is consistent with the future desired character envisaged by Council for the Rockdale Town Centre. The proposal is thus supported for Deferred Commencement approval.

## 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-2016/150 for the construction of a 7 storey mixed use development comprising 39 residential units, 2 commercial tenancies and 4 levels of basement parking at 401-405 Princes Highway Rockdale, be subject to a DEFERRED COMMENCEMENT consent, pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and satisfaction of the following matters:

### **Sydney Trains**

Written correspondence shall be submitted to Council from Sydney Trains which confirms the satisfaction of the following Sydney Trains requirements;

- a. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
- b. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- c. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- d. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- e. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

### **Telstra**

- a. The Deed of Agreement between Telstra and the Applicant to modify easements benefiting Telstra upon the site, shall be executed and all associated easements, subject of this agreement, shall be modified on the title of the property. Copies of proof of execution of the aforementioned, relevant instruments and registration of these instruments with NSW Land Registry Services is to be submitted to Council.

### **Bayside Council**

- a. The 0.9m Right of Foot Way easement, spanning the depth of the site for the entire frontage to Fox Lane, benefitting Bayside Council, shall be modified on title, increased to 1.2m and relocated in the position of the new footpath as illustrated on the approved ground floor plan. A Subdivision Certificate shall be submitted to and approved by Council to this effect. Proof of registration with NSW Land Registry Services is to be submitted to Council.
- b. Plans, details and specifications of any proposed telecommunications facilities to be erected upon and / or attached to the development shall be submitted to Council for review and approval. Should nil telecommunications facilities be sought to be erected upon the subject site and / or attached to the development, correspondence from the Telstra confirming the aforementioned is to be submitted to Council.
- c. Architectural plans shall be amended as follows and submitted to Council for review and endorsement;

- Accessible car spaces within basement levels are to be relocated to provide safe and direct access to lift cores with no cross overs of vehicle manoeuvring areas.
- An internal interconnecting corridor be provided between the lift cores within the building at level 3 or 4.
- Internal building access to be provided between the loading / unloading area and the Fox Lane residential lobby.

d. Concept civil engineering plans in relation to the widening of Fox Lane shall be submitted to Council for approval by Councils Coordinator Public Domain as follows;

- i) Fox Lane shall be re-designed as a two-way lane.
- ii) A 1.2m wide footpath shall be provided on the northern side of the lane adjoining the site.
- iii) Widening of Fox Lane fronting Princes Highway shall be designed as an intersection with all necessary traffic control devices and intersection geometric design requirements considering frontage road speed of 60 Km/h.
- iv) Sight distance at access and minimum sight lines for pedestrian safety.
- v) Desirable minimum radius turning path in accordance with the Austroads templates covering turning speeds of 5 km/h to 15 km/h.
- vi) Clearance to swept paths of turning vehicles. At least 600m from kerb to Awning or structure.
- vii) Vertical height clearance minimum 4.5m.

The above details shall be accompanied by a design certificate form a Chartered Civil Engineer with concept civil engineering plans.

The period of the Deferred Commencement is twelve (12) months from the date of determination.

3. That objector be notified of the Bayside Planning Panel's decision.

## Background

---

### History

Prior to DA lodgement plans of the proposal were submitted to the Design Review Panel for consideration on two occasions being 19 August 2014 and 13 November 2015. On both occasions the DRP raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions of RLEP 2011. Concerns were also raised in regards to the height, bulk, scale and density of the proposal.

23 October 2016 DA-2016/150 submitted to Council

Construction of an eleven (11) storey mixed use development comprising 69 residential units and 2 commercial units with basement parking.

3 November - 4 December 2015 Public notification of proposal.

13 November 2015 consideration by Design Review Panel. The DRP once again raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions, bulk, scale, density, solar access, design and provision of communal open space, management of portions of the site burdened by easements, residential amenity and potential areas of concealment.

12 May 2015

Letter sent to applicant raising issues of the DRP, matters raised by Sydney Trains, Sydney Airports and Council's concerns including but not limited to Height, building separation, insufficient setbacks, solar access, insufficient communal open space provision and unsatisfactory design, inappropriate unit mix, insufficient information.

The issues raised within correspondence to the applicant were a direct consequence of the size of the subject site and density sought to be achieved. The applicant was advised that a significant reduction in the height and gross floor area of the development was required in order to resolve the issues raised, ensure a satisfactory built form and streetscape response and to ensure that residential amenity to future occupants and neighbouring properties is retained and maximised.

The applicant was requested to withdraw the application.

6 June 2016

The applicant did not seek to withdraw the application and thus submitted a revised scheme to Council on 6 June 2016, proposing a part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking.

4 August 2016

Reconsideration by Design Review Panel. DRP reiterated concerns previously raised.

24 August 2016

Applicant was emailed to advise of issues related to DA which require resolution. These matters included but were not limited to easements affecting the site, excessive height, unsatisfactory design and amenity issues, Traffic Committee requirements, insufficient information, engineering and stormwater matters.

6 September 2016

Meeting with applicant to discuss issues. Applicant was advised variations would not be supported and plans required substantial amendment to be brought into compliance. It was further advised that matters relating to easements required discussion with Telstra.

8 November 2016

Applicant emails Council to advise they are still in discussions with Telstra regarding easements affecting the property.

7 March 2017

Applicant pursues meeting with Director City Futures and Place Outcomes Team to discuss potential closure / purchase of Fox Lane in order to obtain a site area greater than 1500sq/m and be eligible for the RLEP height bonus. Amongst other matters, it was noted in this meeting that the proponent would be required to obtain in-principle support from Sydney Trains for the extinguishment / deletion of Fox Lane as this provides access to Sydney Trains land to the rear of the subject site. Should the applicant be successful a Design Competition would be required as per RLEP 2011 and a new DA to be lodged.

26 April 2017

Applicant invited via email to withdraw the DA. Applicant did not agree to withdraw the DA.

11 August 2017

Applicant advised to withdraw application as assessment of the application was being finalised. Applicant did not agree to withdraw the DA.

23 August 2017

Applicant seeks to submit amended plans yet these are rejected, as the assessment of the application had been finalised prior to this date and the information sought to be submitted to Council was incomplete and contrary to the requirements of Clause 55 of the Environmental Planning and Assessment Regulation 2000.

12 September 2017

Assessment report for Refusal considered at Bayside Planning Panel Meeting. BPP determined as follows:

- 1. That the matter be deferred to enable the applicant the opportunity to submit amended plans to address the concerns in the officer's report. The amended plans and supporting documentation, including a materials, colours and finishes board, shall be submitted by 17 November 2017.*
- 2. That the objectors be advised of the Bayside Planning Panel's decision.*

13-24 November 2017

Amended plans and information submitted to Council.

December 2017

Applicant was contacted to request information which was not submitted as required. i.e. Revised Acoustic Report, Wind Report, Remediation Action Plan, Executed Deed of Agreement with Telstra, plans and details of proposed telecommunications facility to be attached / installed upon proposed development.

January 2018

Remediation Plan Submitted to Council. Discussion with applicant in relation to conditioning matters relating to the modification of easements on site and plans / information relating to potential telecommunications facilities to be installed upon the building as part of a Deferred Commencement, as this information was yet to be endorsed and / or finalised.

1 February 2018

Revised Acoustic and Wind Reports submitted to Council for review.

## **Proposal**

The proposal seeks to undertake the construction of a 7 storey mixed use development comprising 39 residential units, 2 commercial tenancies and four basement levels incorporating residential and commercial on site parking. The proposed development incorporates as follows:

Basement 4 (FFL 2.45RL - 2.9RL)

14 car spaces, pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

Basement 3 (FFL 5.45RL - 5.9RL)

15 car spaces (including 2 accessible), pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

#### Basement 2 (FFL 8.45RL - 8.9RL)

13 car spaces (including 2 accessible), 6 bicycle spaces, 3 motorbike space, pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

#### Basement 1 (FFL 11.45RL - 11.90RL)

15 car spaces (including 2 accessible), 2 bicycle spaces, pedestrian and vehicular circulation, two lift cores, fire stairs, plant / service rooms, commercial storage, grease arrestor room and accessible toilet facility.

#### Ground Level (FFL 14.84RL - 15.24RL)

Retail space 2 (177sq/m + 160sq/m 'seating' area within building envelope) fronting Princes Highway, with accessible chair lift to main entrance of this tenancy. Recessed residential lobby to Princes Highway, letter boxes and hydrant boosters. Retail space 1 (149sq/m) fronting Princes Highway and wrapping the corner to Fox Lane via full height glazed facades. The primary access to retail space 1 is via Princes Highway, yet a second pedestrian access is also provided via Fox Lane. Retail tenancies have independent toilet facilities.

The ground level of the proposed building is setback 3m from the existing front property boundary of the site to the Princes Highway and 3m from the existing property boundary to Fox Lane. The area forward of the building line at ground level in these locations is proposed to comprise as follows:

- a. Princes Highway frontage - Paving, three planter beds comprising 4 trees (Crab Apple, 4m - 6m mature height) and shrubs (False Cardamom Ginger, 1.5m - 2m mature height).
- b. Fox Lane frontage - Paving, provision of a 2.1m wide footpath and planting of five street trees (Blueberry Ash, 4m - 6m mature height).

An awning structure is proposed along the Princes Highway and Fox Lane frontages of the site.

Four (4) fire exit stairs front and exit onto Fox Lane. A second residential lobby with letterboxes is also provided. Vehicular access to the site is proposed via Fox Lane, with a substation incorporated into the building envelope adjoining the vehicular entrance.

The ground floor of the development further incorporates a loading / unloading bay for an SRV, plant rooms, designated residential and commercial garbage storage rooms.

#### Level 1 (FFL 18.84RL)

6 residential dwellings with associated private open spaces, units A1.6 / A1.3 are provided with courtyards, lift / stairwell access, garbage chute, recycling and services cupboards. Level 1 courtyards are tiled with a planter box incorporating mass planting of shrubs to a mature height of 5m provided along the northern side boundary.

#### Level 2 (FFL 21.89RL)

8 residential dwellings with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards.

#### Level 3 (FFL 24.94RL) / Level 4 (FFL 27.99RL) / Level 5 (FFL 31.04RL) (per floor)

7 residential dwellings with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards. Balconies to Princes Highway are provided with planter boxes incorporating mass cascading shrub planting along the northern and eastern boundaries.

## Level 6 (FFL 34.09RL)

4 residential units with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards. The second storey component of 3 bedroom units fronting the Princes Highway is provided at this level.

## Rooftop Communal Open Space Area

Mass planting is provided along the periphery of the rooftop terrace. Dual lift cores provide access. A range of communal areas with tiled flooring are provided, also incorporating two deck areas with seating, bench seating is provided along planters, lounges, tables, toilet, bbq and internal communal room with kitchenette are provided. Two timber and steel arbour structures are proposed. A glazed throw barrier is provided along the western elevation of the rooftop.



*Proposed development viewed from Princes Highway.*

## Site location and context

The subject site is 401-405 Princes Highway, Rockdale which is currently vacant with industrial building waste across the site. The development site consists of Lot 100 in DP 1097898. The subject site has two street frontages to Princes Highway (east) and Fox Lane (south). The subject site is irregular in shape and comprises of a 26.015 metre eastern Princes Highway boundary, a 2.37 metre south-eastern splay to the corner of Fox Lane and Princes Highway, a 43.075 metre southern Fox Lane boundary, a 26.6 metre western boundary abutting the Illawarra line railway, a 25.82 metre (part) northern boundary, a 7.705 metre (part) western boundary and a 27.1 metre (part) northern boundary. The development site area is 1306m<sup>2</sup>.

The site is currently vacant and appears to be used as a builders yard. The site has a fall of approximately 1m from the rear to the front property boundary. The site is burdened by a number of easements, including an easement for telecommunications and an overlapping easement for services and drainage of water (both 7.5m wide) along the north-eastern edge of the site, a right-of-footway (900mm wide) and an easement for drainage (1.83m wide) along the southern edge of the site.

To the north-west of the subject site is No.397A Princes Highway which is occupied by a two storey brick telephone 'Telstra' exchange building with basement level occupied by significant and substantial cabling. Telecommunication antennas exist on the roof and vehicular access is provided to this site



from an unnamed laneway off Princes Highway. The subject site is burdened by the following easements and rights of way for the purposes of telecommunications, services, access and drainage as follows;

- A / B. Easement for telecommunications & drainage purposes, 7.5m wide, limited in height, along the northern side boundary of the site with 397A Princes Highway.
- C. Right of Access and easement for parking 6.2m wide, part limited in height, running the length of the rear boundary of the site.
- D. Right of footway 0.9m wide limited in height, running the depth of the site from the Princes Highway to the rear boundary of the property.
- E. Easement for drainage 1.83m wide, running the depth of the site from the Princes Highway to the rear boundary of the property.
- F. Easement for access and drainage variable width
- G. Area of easement 1.1m wide unlimited in height and depth running the width of the rear boundary of the site.
- H. Area of easement 5.1m wide, limited in height to RL19 and unlimited in depth, running the width of the rear boundary of the site.

To the north of the subject site is No.397 Princes Highway, a property with a total site area of 1696sq/m. This property is currently being redeveloped, as per the recently issued approval DA-2016/420 for the construction of an eleven (11) storey mixed use development comprising 91 residential units, 3 commercial units & three levels of basement parking approved on 3 August 2017. The DA at 397 Princes Highway Rockdale was lodged and approved following the conclusion of a Design Competition of the site, as required by Clause 6.14 of Rockdale LEP 2011.

To the east of the subject site, opposite Princes Highway, is No.386-388 Princes Highway 'Snow & Water Skiers Warehouse' a two-storey brick render commercial/retail shop with windows on the upper floor levels fronting Princes Highway. Vehicular/loading bay access is from the rear King Lane. To the south-east of the subject site, opposite Princes Highway, is No.390 Princes Highway a two-storey brick render commercial/retail shop with windows on the upper floor levels fronting Princes Highway. Vehicular/loading bay access is from the rear King Lane. Also to the south-east of the subject site is No.394-396 Princes Highway is also a two-storey brick render commercial/business premises with windows on the upper floor levels fronting Princes Highway.

To the south is No.407 Princes Highway 'Paint Trade Centre' which is a two-storey brick render warehouse building with vehicular/loading bay access from Fox Lane. Also to the south-east of the subject site is No. 409 Princes Highway 'Inspirations paint' which is a two-storey brick render warehouse building. A small allotment is located at 407A Princes Highway to the rear of 407, this lot is owned by Sydney Trains.

The image below illustrates the site along with recent approvals and / or development applications:



Adjoining the subject site, to the west, adjoining the rear boundary of the subject site is the Railway Corridor, which comprises numerous one-and-two brick buildings, rail sidings and signal box and buildings and are within the 'Rockdale Railway Station and Yard Group' heritage item I222 which is of state significance. Further to the south west are single and two storey buildings constructed on 1-2 Wainnes Crescent and over the railway corridor and used for the purposes of a meat processing operation. It is noted that although the site adjoins the railway corridor to the rear, the physical railway line is positioned a minimum of 21m from the rear boundary of the subject site. As can be seen below, the land outlined in red is owned by Sydney Trains and leased, with a small slither of land outside this lease and behind the development site providing Sydney Trains access to the Railway Corridor for maintenance and emergency purposes.

The subject site is potentially affected by contamination due to the previous industrial land uses. The subject site is affected by acid sulphate soils - Class 5.

## Statutory Considerations

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

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

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

The proposal includes excavation works for basement car parking that will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 27 November 2015 which have been incorporated into the draft Notice of Determination.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 637922M\_04. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 23  
Reduction in Water Consumption 40  
Thermal Comfort Pass

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

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

The following clauses of the SEPP apply, given the location of the subject site on the Princes Highway which is a classified road and its position adjoining a railway corridor to the rear.

- Clause 101 - Development with frontage to classified road
- Clause 102 - Impact of road noise or vibration on non-road development

The above requires the consent authority to require vehicular access from an alternative road other than the classified road, to ensure the ongoing efficient operation of the classified road and also to ensure the development is appropriately insulated from potential road noise and vibration. The property benefits from alternative means of vehicular access via Fox Lane which directly adjoins the subject site to the south. The proposal seeks to provide vehicular access from this lane and as such satisfies the requirements of clause 101.

Further to the above, the proposal has been accompanied by an Acoustic Report, prepared by Acoustic Noise & Vibration Solutions, dated 25/01/2018 which recommends appropriate design construction measures in order to ameliorate traffic and rail noise and vibration. The proposal complies with the provisions of clause 102 and clause 87 referred to below.

- Clause 85 - Development immediately adjacent to rail corridors
- Clause 86 - Excavation in, above or adjacent to rail corridors
- Clause 87 - Impact of rail noise or vibration on non-rail development (for residential development)

The proposal seeks to undertake excavation greater than 12m on site in order to construct basement car parking levels for the proposed development. The site adjoins Sydney Trains land to the rear of the site and the proposal was referred to Sydney Trains for comment. Sydney Trains recommended Deferred Commencement Conditions to ensure any excavation and/or construction will not adversely impact upon the railway corridor or its operations.

- 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, being power poles and lines at the Princes Highway frontage of the site and along Fox Lane. In accordance with clause 45(2) written notice was provided to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risk. Accordingly, the proposal was referred to Ausgrid, who raised no objections to the

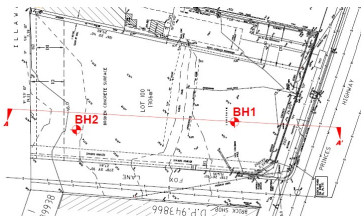
proposed development subject to the imposition of standard conditions of consent.

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

The property is not identified in Council's records as being potentially contaminated. Notwithstanding the subject site is currently used for the purposes of storing building waste from other development sites, and has been utilised previously for industrial uses. As such it is prudent to ensure the requirements of SEPP 55 are taken into consideration.

The application was accompanied by a Preliminary Geotechnical Investigation and Waste Classification Assessment report prepared by Douglas Partners and dated January 2015. The report confirmed that two (2) borehole log profiles were taken on site to depths of 14.3m and 16.5m below ground level. Eleven (11) samples taken from the bore holes and were tested for contaminants.

Laboratory analysis showed that concentrations of contaminants were all below the threshold criteria for General Solid Waste (non-putrescible) and no asbestos was detected in the samples.



The report further noted that *'the natural soils below the filling may be able to be described as virgin excavated natural material (VENM) upon excavation providing they are not cross-contaminated during site works. The preliminary waste classification is limited to the in-situ material collected from boreholes BH1 and BH2 on 18 and 19 December 2014 and does not cover other material on the site'*. Subsequently, a Detailed Site Investigation was prepared by EIA Australia dated 9 November 2017. The report concluded that *"soil contamination was observed and will require remediation"*. As such a Remediation Action Plan was requested of the applicant.

A Remediation Action Plan was prepared by the applicant and submitted to Council for review on 18th January 2018. The RAP was reviewed by Councils Environmental Health Officer whom raised no objections to the recommendations and conclusion of the Report, which noted that the *"Site can be made suitable for the development through the implementation of remediation works described in this RAP"*.

Given the above, the proposal has been conditioned to ensure remediation works are implemented on site in accordance with the RAP and thus the site is suitable for the proposed development in accordance with the requirements 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 four occasions, 19 August 2014, 13 November 2015, June and 4 August 2016. The Panel raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions of RLEP 2011. Concerns were also

raised in regards to the height, bulk, scale and density of the proposal in addition to concerns relating to solar access levels, design and provision of communal open space, management of portions of the site burdened by easements, residential amenity and potential areas of concealment.

Final revised plans submitted to Council in November 2017 were not assessed by the DRP, given the substantial reduction in height and density and the matters raised above were considered in the final assessment by the planning officer in the preparation of this report. Previous issues raised by the DRP are 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. The revised proposal is satisfactory and is considered to satisfy the design principles as detailed below.

#### Principle 1 – Context and Neighbourhood Character

The DRP noted that the *"site is not of sufficient size to qualify for the height bonus. The only justification that the Panel sees for any increased height along the Princes Highway frontage would be through:*

- *The widening of Fox Lane and landscaping treatment,*
- *Compliance with Council's Princes Highway Vision in the style guide*
- *The maintenance of the Council height regulation for the rear building (defined as those units currently served by the Fox Lane lift)*
- *Provision of roof communal open space to the full extent of the rear building (defined as those units currently served by the Fox Lane lift).*

The DRP stated that the points above to some degree have been addressed. However, the Panel still feels that Units A8.4, 9.4 should be removed and the roof terrace be expanded to provide sufficient usable space for the number of proposed residents. Furthermore, this would reduce the bulk of the building, particularly adjacent to Fox Lane. DRP stated that *"the Council's height regulation to Fox Lane is not complied with and should be complied with. Communal facilities breaching the height plane are acceptable (including lift, fire stairs, shade structures, kitchen, common rooms and toilets)."*

Comment: Revised plans submitted to Council in November 2017 incorporate the deletion of levels 8 - 11 of the earlier scheme of which the DRP raised concerns. The proposal is now a 7 storey building with rooftop communal open space areas. A minor non compliance is sought in relation to rooftop structures, including the lift / stair overrun, pergolas, communal room, toilet and a small portion of the building parapet at rooftop level. Habitable areas forming part of the proposed development remain compliant with the height standard for the site. As noted above, a height exceedance in relation to rooftop structures was supported by the DRP.

The proposed height and form of the development is now more appropriate upon the subject site given site constraints. The design of the proposed development is consistent with Councils vision for the Rockdale Town Centre and provides for a street edge building with a modulated built form which is consistent with the context of approvals surrounding and opposite the subject site. i.e. 11 storeys to northern adjoining neighbour and 9 storeys opposite.

The proposal has been conditioned to ensure the widening of Fox Lane for vehicular and pedestrian traffic occurs. Plans and information, including proposed finishes, landscaping, levels and specifications of any kerb / gutter and any associated storm water works likely to be required within Fox Lane etc, will be required to be submitted to Council and approved by Councils Public Domain Coordinator prior to the issue of any Construction Certificate. The aforementioned is directly correlated to deferred commencement conditions, which require the modification and registration of relevant easements affecting the site.

The DRP noted that *'there is insufficient information to understand the constraints arising from the various easements on the site. Full documentation and sign off by Telstra is required.'*

Comment: The formally registered 88B Instrument and linen plan applying to the subject site details a number of easements and restrictions burdening the property, which benefit Telstra and Bayside Council as follows:

<b>Registered Easement</b>	<b>Benefits</b>
<b>C</b> - Right of Access and Easement for parking 6.2 wide, part limited in height. (19RL)	Telstra
<b>D</b> - Right of Footway 0.9m, limited in height (19RL)	Bayside Council
<b>E</b> - Drainage Easement 1.83m wide	Telstra
<b>G</b> - Unlimited in height and depth	Telstra
<b>H</b> - Area of easement 'C', 5.1 wide limited in height to 19RL and unlimited in depth	Telstra
Restriction on Use of Land - Maximum height 2 storeys	Telstra

The proposal in its revised form requires the modification of easements on site in order to accommodate the proposed development, associated basement levels, the widening of Fox Lane and provision of suitable 1.2m wide accessible pedestrian footpath along Fox Lane which complies with current public domain specifications.

The submission of amended information in November 2017 did not include an executed Deed of Agreement with Telstra and nil written agreement with Bayside Council to vary the easements burdening the site.

Given the above, the proposal is subject to Deferred Commencement conditions which require the approval of the aforementioned authorities and registration of any modifications to easements on title, prior to any consent on the site being activated.

The DRP was of the view that *"the current proposal seeks to benefit excessively from a concession to allow the bonus height and needs to be significantly altered as recommended in the minutes to earn the right to that concession, should the Council be of a mind to grant it"*.

Comment: Rockdale Town Centre currently comprises a mix of commercial and light industrial older building stock and is currently undergoing transition from a relatively low scale commercial / light industrial precinct to a high density mixed use residential area. Revised plans confirm that the applicant no longer pursues the 'bonus height', of which the site is not entitled to. Recent applications and / or approvals in close proximity to the subject site include 7, 9 and 1 x 11 storey buildings as illustrated in

the image within the 'Site Location and Context' section earlier in this report.

The proposed design in its current form will contribute to the emerging streetscape character of the northern portion of the Rockdale Town Centre. The design of the development provides an appropriate relationship with the approved development under construction on the northern adjoining lot and provides a transition in built form, which is indicative of the mass and scale of development which can be expected upon lots further to the south. The proposal is consistent with the future desired character of the area and is satisfactory with regards to this principle.

### Principle 2 – Built Form and Scale

The DRP recommended an "*L shape building configuration for the site*".

Comment: The final scheme retains a U shaped form on site. Appropriate privacy and amenity is provided on site given the design of the proposal. The U shaped building configuration is not deemed to be unsatisfactory.

*The substation in the laneway footpath is not acceptable and should be incorporated into the building footprint.*

Comment: Revised plans illustrate that the substation has now been incorporated into the building footprint.

*The DRP reiterated that the subject site does not qualify for an additional 12 metres in height. The DRP stated that the part of the building facing the Highway still exceeds the height limit, the Panel feels that this could be acceptable given the reduction of building mass recommended by the Panel to comply with the height limit along Fox Lane (in conjunction with reduction of the non-conforming bulk as mentioned above) which would facilitate alignment with bulk and scale of the developments to the south on sites less than 1500sq.m and would also facilitate solar access to buildings to the south.*

Comment: Revised plans illustrate that the 'bonus height' is no longer sought as part of this application.

The proposed building form, scale and mass in the final revised scheme is satisfactory upon the subject site and consistent with the future desired character as envisaged by the controls of Council's Rockdale DCP 2011.

### Principle 3 – Density

The DRP noted that "*the recommendations provided to the applicant will reduce density to a more appropriate level.*"

Comment: The density of the development has been significantly reduced from 57 to 39 units. This has resulted in a reduction in the height of the development and its overall bulk and scale to a more appropriate form. The proposal is satisfactory in this regard. The revised proposal satisfies this principle.

### Principle 4 - Sustainability

The DRP noted that a revised BASIX report was required. It was further stated that *"for a development of this size, it is expected that a full range of sustainability features will be incorporated (water recycling, energy efficiency, WSUD, recycling materials etc)"*

Comment: A revised BASIX was submitted with revised plans which satisfies the BASIX SEPP. The applicant confirmed that apartments provide *"a good level of solar access"*, have *"good natural ventilation"*, provide for *"deep soil areas which facilitate the provision of street trees and natural water infiltration"*, seek to install *"rainwater tanks to the common areas for irrigation and toilet use"*.

#### Principle 5 – Landscape

The DRP was of the opinion that the open space provided at level 1 is of *"limited utility for communal use and should be confined to decorative planting to improve outlook. This planting should be carefully selected to achieve screening and outlook for apartments adjacent and above"*.

Comment: Revised plans confirm that the prior level 1 communal open space area has now been reallocated and converted to private terraces to units A1.6 and A1.3.

The proposed undercroft *'outdoor seating area in the Telstra right of way on the northern side of the site is of very low amenity and is not endorsed. Further clarification is required as to how this space might be designed, managed and used. This requires further detailing, explanation as to the fitout and functionality and how appropriate amenity levels can be achieved. Detailed landscape drawings and images by a qualified Landscape Architect and an interior designer should be provided"*.

Comment: The applicant submitted a 3D perspective which confirms that solar access to this space, is provided via the glass roof from 12pm till 2.30pm in midwinter. This space will further comprise feature pendant lighting to allow for sufficient lux levels to meet the requirements of the Building Code of Australia. This space is capable of being open during the cooler periods of the year and will also have the option to be closed and fully air conditioned. Further amenity is provided by the ceiling height of approximately 6m and the large full height glazed window which faces east at the Princes Highway. Tiles are provided to the floor, enabling removal where required in the event Telstra requires access to cabling below.

The DRP stated that *"Fox Lane should be improved as part of this proposal, through the provision of street tree planting, footpath and upgraded streetscape elements such as kerbs and paving. This would also improve the address to the proposed residential lobby on the lane. Streetscape improvements should also be provided to the Princes Highway frontage. It would be desirable to provide street tree planting to improve residential outlook and street amenity"*. The DRP further noted with respect to the Princes Highway frontage planting that the *"primary tree species nominated are of insufficient scale to achieve avenue planting and Council's Green Gateway Vision. A larger species (min. 15m high) should be incorporated"*.

Comment: Plans illustrate the provision of street tree planting (5 x Blueberry Ash) and a 2m wide footpath along the Fox Lane frontage of the site. As previously discussed, the proposal has been conditioned to ensure streetscape improvements occur in Fox Lane in line with Council requirements.

The proposal includes a 3m building setback to the Princes Highway with basement levels below also setback 3m in order to accommodate deep soil and facilitate tree planting. Plans illustrate the provision



of planters with shrubs and 4 x Ornamental Pear trees planted along this frontage, with the awning above reduced in depth i.e. protruding 1.5m from the building edge, in order to enable trees to grow above the awning level. It is noted that the Ornamental Pear trees have a mature height of 10m. Forward of the Ornamental Pear trees, 2 x Spotted Gum trees are proposed, these comprise a mature height of 25m - 30m and are deemed to be of sufficient scale to achieve avenue planting and Council's Green Gateway Vision as noted by the DRP.

*The "substation should be relocated. Furthermore, details should be provided on overhead power lines (undergrounded)."*

Comment: The substation has been relocated and now sits within the building envelope. Power lines can be undergrounded and the proposal has been conditioned accordingly.

*The DRP noted that the number of parking spaces provided on site is "over provided" and that "deep soil should be provided along the Fox Lane setback zone to facilitate street tree growth to supplement the proposed 3m deep soil setback along the Princes Highway".*

Comment: Plans illustrate a reduction in the basement footprint of the development and reduction in car parking numbers from 75 to 57 on site. The 3m building and basement setbacks to both Fox Lane and the Princes Highway enable the provision of deep soil areas which would facilitate tree growth. Planters with shrubs and trees are proposed along these two frontages as discussed above.

*The DRP noted that the "proposed communal open space on the rooftop level 8 needs much more considered design to provide a series of spaces defined by planting and providing a diverse range of areas for residents to use. There is an over reliance on arbours and excessive paving. This should be redesigned to include more tree/ground level planting where possible. Rainwater tanks should be integrated into the building and not attached to the wall of the communal open space".*

Comment: The proposed rooftop communal open space area has been redesigned to accommodate a range of passive communal areas with a range of surface finishes including paving and timber decking. Periphery planters incorporating ground covers, shrubs and trees provide privacy and visual amenity. A range of facilities are provided for future users, including bbq's, indoor / outdoor communal room, toilets, arbours, dedicated tables, chairs and benches. A proposed 5000litre rainwater tank is proposed behind the lift core and obscured by planting. The matters raised by the panel above have been resolved.

The revised proposal is satisfactory in relation to this principle.

#### Principle 6 – Amenity

The panel raised concerns in relation to '*privacy conflicts*' between the proposed communal area at level 1 and adjoining units. Whilst the floor plan has been reconfigured in the revised scheme and reduced the number of units directly adjoining the communal open space, this issue remains as three units, A1.3, A1.5 and A1.6 adjoin this area.

The DRP raised concerns in relation to:

a) '*poor quality of communal space*'

Comment: As noted above, matters pertaining to the quality, location and extent of proposed communal open space areas on site have since been resolved. Proposed rooftop communal open space areas are deemed to be attractive, inviting, functional and will encourage social integration and amenity for future occupants.

b) *"remote and spatially constructed entrance lobby off Fox Lane"*

Comment: The residential entry lobby off Fox Lane is no longer recessed, with a doorway entrance directly upon the new property boundary to Fox Lane.

c) *"unsafe access to lifts in basement"*

Comment: Accessible car spaces within basement levels 1 and 2 are not all located within close proximity to proposed lift cores and require kerb cross overs in order to access lifts. This requires further resolution in order to maximise the safety of persons with a disability / mobility impairment whom will utilise these spaces. The proposal will be subject to conditions which require the accessible spaces to be relocated to provide safe and direct access to lift cores with no cross overs required.

d) *"Solar access to the east and west facing units should be illustrated to show a compliant minimum of 2 hours of direct sunlight to the living areas"*

Comment: 'Solar Access' plans submitted to Council illustrate that a total of 26 of 39 (66.6%) units receive 2 hours of direct sunlight to living areas in midwinter. A further 5 of 39 (12.8%) of units receive 1.5hrs. Whilst there is a variation 3% (2 of 39 units) this variation is deemed to be minor and not of a degree that should warrant refusal of the application. A minor variation as sought by the applicant is deemed to be satisfactory in this instance, given 31 of 39 (79.4%) of units will receive a minimum of 1.5hours of solar access to their habitable areas in midwinter and generous rooftop communal areas are provided which receive >3 hours solar access in midwinter.

e) *"In-unit storage is generally provided but some units do not appear to have the required 50% of storage volume. Design amendments should be made to comply and a table of storage provision for each unit should be submitted demonstrating such compliance with the ADG"*

Comment: Plans illustrate the provision of storage cupboards within residential dwellings, with generous supplementary storage provided within the basement levels. The proposal is satisfactory in this regard.

f) *"While 6 adaptable units are provided, they are all served by a single lift which means that disabled occupants could be stranded or excluded when the lift is out of action. It is recommended that disabled units be located at levels where an interconnecting corridor between the two lifts can be provided"*

Comment: Revised plans illustrate a total of 4 accessible units within the development, being units A1.1, A1.2, A3.3 and A4.3 located on levels 1, 3 and 4. The applicant has advised that the provision of an interconnecting corridor at level 1 would cut through a fire stair that exits to the lane, on levels 3 and 4 an interconnecting corridor would effectively delete units A3.4 and A4.4 and require amendment to units 3.3 and 4.3.

Whilst the applicant contends that this is not a requirement of the ADG and a previous development in

the town centre did not provide an interconnecting corridor, it is the view of the assessing officer that the provision of an interconnecting corridor facilitating access for persons with a disability / mobility impairment is not unreasonable. In this regard the proposal has been conditioned, as part of the Deferred Commencement, that an internal interconnecting corridor be provided between the lift cores within the building at level 3 or 4. This will require the redesign of units 3.3/3.4 or 4.3/4.4 and may result in the loss of up to 2 residential units within the development.

g) *"Excessively narrow inaccessible balconies are unacceptable"*

Comment: Plans have been revised to minimise narrow balcony spaces. Units are provided with principle balcony spaces of appropriate dimensions and overall areas.

As demonstrated above, revised plans have resolved issues of concern previously raised by the DRP.

#### Principle 7 - Safety

The DRP raised the following concerns:

a) *'The very narrow lane requires pedestrians to step into the roadway and this is unacceptable.'*

Comment: Plans illustrate the provision of a delineated pedestrian pathway within the site boundaries along Fox Lane.

b) *'Areas of concealment along the driveway are still an issue'.*

Comment: A roller door has been introduced to the loading / unloading area adjoining the driveway on site. This issue has been resolved.

c) *"The deeply recessed entrance from Princes Highway to the lobby is a place of concealment. The entrance door should be moved forward which would create an opportunity to improve the internal quality of this otherwise uninviting space. Similarly, the doors to the Fox Lane residential entrance should be moved out as far as possible to minimize a place of concealment'.*

Comment: The doors to the Princes Highway entry lobby have been brought forward to minimise areas of concealment. A small undercover area is provided forward of the doorway, with fire boosters / letter boxes provided. The revised scheme is considered to be satisfactory.

The proposal has further 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. The development provides for easily identifiable, prominent & generous residential lobbies and commercial tenancies comprising individual distinguishable pedestrian entries.

The proposal satisfies the requirements of this Principle.

#### Principle 8 - Housing Diversity and Social Interaction

The DRP noted that the unit mix has been *'substantially improved'*.

Comment: Original plans did not incorporate any 3 bedroom units. The revised scheme comprises 3 x 3 bed, 8 x 1 bed and 28 x 2 bed dwellings. The proposed unit mix provides a range of housing to cater for diverse household types and different income groups and the revised unit mix is deemed satisfactory.

The development further incorporates a generous and appropriate designed communal rooftop open space area, with various spaces which will encourage and provide opportunities for social interaction between future occupants. The proposal is satisfactory in regards to this principle.

Principle 9 – Aesthetics

The Panel recommends that the *'applied framed elements with curved corners be deleted and the façade treatments be made more simple and cohesive. It is also recommended that the top two floors corresponding to the maisonette units be distinguished from the rest of the building with subtle differentiation in materials and elevational details'*.

Comment: The assessing officer is of the view that the applied framed elements with curved corners do not over complicate the façade, particularly given the reduction in height of the building. The curved corners proposed for the lower podium levels have a similar language to these framed elements providing a cohesive façade treatment. Given the reduction in building height by 4 storeys, amending the façade to reflect the maisonette units would fragment the façade and potentially result in a building which is disproportionate. The proposed aesthetics of the final revised scheme, incorporating a range of materials, elements and finishes is considered to be satisfactory and satisfies the intent of this principle.

The DRP noted that the *"application should include details of the Telstra equipment that is intended to be installed on this building and measures taken to minimise any adverse aesthetic impacts"*.

Comment: Details of the potential Telstra communication structures to be installed upon the development have not been submitted for assessment. The proposal is subject to a deferred commencement condition requiring the submission and approval of this information by Council prior to the activation of the consent.

*c. Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG) as shown below.

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3D - Communal Open Space	25% (326.5sq/m) site area 50% direct sunlight to principal useable part of COS for 2hrs in midwinter	545sq/m	Yes

3E - Deep Soil Zones	7% (91.4sq/m) deep soil zone with minimum dimensions of 3m			35.2sq/m planting in the form of periphery planters at the Fox Lane and Princes Highway frontage	<b>No</b> - 56.2sq/m deficiency. Setback areas to Princes Highway / Fox Lane are primarily hard paved.
3J - Bicycle and car parking	Minimum Rate (Guide to Traffic Generating Developments) = 55 (34 residential / 8 visitor /13 commercial)			57 car spaces in total	Yes
4D – Apartment Size & Layout	<b>Unit</b>	<b>Min area</b>		1 bed - 50sq/m - 63sq/m 2 bed - 70sq/m - 88sq/m 3 bed - 111sq/m - 127sq/m	Yes
	1 bed	50sq/m			Yes
	2 bed	70sq/m			Yes
	3 bed	90sq/m			
4C – Ceiling Heights	<b>Area</b>	<b>Min Height</b>		2.7m habitable 2.4m non habitable 3.3m ground floor 2.7m first floor	Yes
	Habitable	2.7m			Yes
	Non-habitable	2.4m			Yes
	Mixed use	3.3m ground & first floor			<b>No</b> - Variation deemed satisfactory given scale and extent of commercial area provided at ground level and unlikely conversion of first floor to commercial uses following strata subdivision of the development.
3F Visual Privacy	<b>Building height</b>	<b>Habitable rooms &amp; balconies</b>	<b>Non Habitable</b>	See discussion below.	See discussion Below.
	Up to 12m	6m	3m		
	Up to 25m	9m	4.5m		

4A – Solar & Daylight Access	Living rooms + POS of at least 70% (28 of 39) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			26 of 39 (66.6%) units receive 2 hours of direct sunlight to living areas in midwinter. A further 5 of 39 (12.8%) of units receive 1.5hrs	<b>No</b> -variation 3% (2 of 39 units deficient) Minor variation deemed satisfactory.  Yes
	Max 15% (6 of 39) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			6 of 39 (15%)	
4F – Common Circulation	Max apartments off a circulation core on a single level is eight.			Max 4 units per core	Yes
4E – Private Open Space & Balconies	Dwelling type	Min area	Min depth	1 bed - min 8sq/m provided	Yes
	1 bed	8m <sup>2</sup>	2m		Yes
	2 bed	10m <sup>2</sup>	2m	2 bed – min 10sq/m provided	Yes
	3+ bed	12m <sup>2</sup>	2.4m	3 bed - min 12sq/m provided	Yes
4B – Natural ventilation	Min 60% (24 of 39) of apartments are naturally cross ventilated in the first nine storeys of the building.			28 of 39 (72%)	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			<18m depth	Yes
4G – Storage	Dwelling	Requirement		Appropriate inter - unit storage provision with supplementary within basement levels	Yes
	1 bed	6M <sup>2</sup>			
	2 bed	8m <sup>2</sup>			
	3 bed	12m <sup>2</sup>			

## Discussion

### *3E - Deep Soil Zones*

The provisions of the ADG require a minimum deep soil zone of 7% (91.4sq/m) with minimum dimensions of 3m. A total of 35.2sq/m of deep soil planting in the form of periphery planters at the Fox Lane and Princes Highway frontage is proposed, this provides a total of 2.6% deep soil on site. Plans illustrate the provision of proposed pedestrian pathways which are intended to be paved adjoining these planters. These paved areas are within the site boundaries and deep soil areas exist beneath. The proposal will be conditioned to require that permeable pavers are provided in this location in order to assist with stormwater infiltration on site. Given the aforementioned and the location of the site within the Rockdale Town Centre, the proposed variation is not considered to be unreasonable and is supported on this basis.

### *3F - Visual Privacy*

The tables below illustrate the building separation distance proposed on site and to the northern neighbouring development as approved. Whilst building separation distances as proposed do not adhere to the requirements of the ADG, visual privacy between the proposed development and that approved upon 397 Princes Highway is considered to be satisfactory.

Building Separation	On Site	Compliance
Up to L4 12m required	Up to L4 = 14.4m	Yes
L5 – L7 18m required	L4 to L7 = 14.4m	<b>No</b> – 3.6m deficient. Angled privacy louvres provided to bedroom windows. Privacy satisfactory
Building Separation	With 397 Princes Highway	Compliance
	<i>(9m side setback approved for building form upon 397 Princes Highway above Level 5, to side boundary with subject site)</i>	
Up to L4 12m required	Lower 3 levels fronting Princes Highway built to Boundary.	<b>No</b> – Build to side boundary proposed. This is satisfactory given 4 storey podium upon 397 adjoining as approved. Nil privacy impacts likely.
L5 – L7 18m required	L4 – L7 = 4.53m to common side boundary.  (13.53m proposed building to approved building upon 397 Princes Highway)	<b>No</b> – 4.47m deficiency. Satisfactory given provision of obscured and highlight windows to ensuite, kitchen and living areas of units.

## Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
1.9A Suspension of covenants, agreements and instruments	Yes	Yes - see discussion
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	Yes	No - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Between 25 and 30 ANEF (2033) contours	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

### 1.9A Suspension of covenants, agreements and instruments

The formally registered 88B Instrument and linen plan applying to the subject site details a number of easements and restrictions burdening the property, which benefit Telstra and Bayside Council. These easements have been discussed in detail within the SEPP 65 (Principle 1) section of this report.

Whilst the provisions of this clause would normally suspend a covenant, easement or instrument, the provisions of this clause do not specifically apply to a covenant imposed by the Council nor suspend the rights or interests of any public authority. It is noted that Telstra is deemed to be a 'Public Authority' as per Clause 277 of the Environmental Planning and Assessment Regulation 2000. As such the provisions of this clause do not specifically apply.

### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as commercial and residential flat building which constitute permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

### 4.3 Height of buildings

As per the provisions of this clause, a maximum height limit of 22m applies to the subject site. The proposal seeks to construct a development on site, with a height as follows.

- a. Rooftop = 21.14m - 22m (37.14RL) - Complies
- b. Parapet / Top of integrated planters = 22.14m - 22.64m (38.14RL)
- c. Top of Arbour / Communal Room / Toilet / Lobby = 24m - 24.54m (40.04RL)
- d. Top of lift / stair overrun = 25.54m - 26m (41.54RL)

The proposed development breaches the height limit on site by 0.14m - 4m and represents a 0.6% - 18% proposed variation to the maximum permissible height limit for the site.

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

### 4.6 Exceptions to development standards

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

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

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



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

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

The variations to the height standard has been assessed below.

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

Variation Sought - Height

As noted within Clause 4.3 - Height of Buildings, the proposal seeks to vary the maximum 22m height standard applicable to the subject site, to the extent illustrated in yellow below.



The proposed development breaches the height limit on site by 0.14m - 4m and represents a 0.6% - 18% proposed variation to the maximum permissible height limit for the site.

Applicants Height Justification

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

- a) The non-compliance relates to the two lift overruns and roof top communal open space, with the lift overrun closest to the Princes Highway frontage being the highest point of the building, at 26.36m. A portion of the roof top parapet wall, further breaches the height limit by up to 840mm, the remainder of the building is below the 22m statutory height limit.
- b) The site has an area of 1306m2 and therefore on its own, does not benefit from the 12m height

*incentive offered to sites in Area A that have an area of 1500m<sup>2</sup> or greater. However, it is understood that in making this additional height incentive available to certain sites, Council's intent was to encourage larger site amalgamations in order to achieve better architectural and urban design outcomes. As such, under a scenario whereby this site was amalgamated with the adjoining site to the immediate north, the combined area would be well in excess of 1500m<sup>2</sup> and the site would then benefit from the additional 12m height allowance.*

*c) Although the sites have not been amalgamated, Council's intent of realising the redevelopment of larger amalgamated sites will still be met, albeit in 2 separate built forms that address the highway frontage. In addition, it is considered that despite being 2 separate built forms, the buildings will be of a high quality design and will add to the vibrancy and vitality of the streetscape and built form character of the northern end of the Rockdale Town Centre.*

*d) A more appropriate transition in built form will be realised if the proposed building has a height that is less than that of the building on the adjoining site to the north, but slightly higher than a 22m high building likely to be realised on the adjoining site to the south. The provision of a 'graded' transition in height at this location will achieve a more desirable urban outcome.*



*e) Despite the lift overruns and roof top communal open space of the building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of the streetscape character and built form and the relationship of the building to the adjoining (anticipated) development;*

*f) The roof top communal open space will not be readily visible from ground level and will not appear as an additional storey. The parapet/planter box across the Princes Highway frontage of the roof level provides an appropriate top to the building, consistent with the ADG design guidance.*

*g) The provision of communal open space accessible by lift on the roof top level is considered to be a positive planning outcome that will benefit residents and their visitors through the provision of a usable area of communal open space that will benefit from high levels of solar access, which combined with the landscaped setting, will achieve a high level of amenity for users of this communal area;*

*h) Despite an increased height above 22m, the proposed development will not have an unreasonable impact on adjoining sites in terms of overshadowing or visual or aural privacy;*

*l) The increase in allowable building heights under the recent LEP amendment has compromised the efficacy of the telecommunications infrastructure on the adjoining Telephone Exchange building. In order to ensure the ongoing efficacy of the telecommunications infrastructure, the infrastructure needs to be raised above its current height. Unless a building height can be achieved to support the effective operation of the telecommunications infrastructure, a condition of the contract of sale for the site restricts any redevelopment on the site to 4 storeys. As such, such a restriction would severely inhibit the ability to achieve the orderly and economic development of the land in line with the applicable planning regime.*

*j) The proposed development will be in the public interest because it will be consistent with both the height of buildings principal development standard objectives and the B4 Mixed Use zone objectives of the LEP.*

*k) The proposed design solution is considered to represent an appropriate development outcome for the site, displaying a design of high quality and appearance, whilst ensuring that a high standard of amenity for future residents will be achieved.*

### Height Discussion

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 subject site is constrained as a result of a flooding affectation. Accordingly the ground level of the development is required to be raised a minimum 0.25m in order to provide minimum habitable floor levels which will be above the flood level for the site. The flooding affectation of the site is directly correlated to the additional height proposed in this instance. Should the site not have been constrained by flooding, the overall height of the development would be reduced in extent, with a larger areas of the development complying with the applicable height limit.

b) Proposed rooftop structures and a portion of the parapet which breach the height limit, i.e. lift / stair overrun, toilet, communal room, pergola and planter boxes 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 and is in excess of that required by relevant planning controls. Rooftop elements that depart from the height standard account for a limited portion of the building footprint.

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 structures at rooftop level are recessed into the design of the development or located away from the primary frontage of the site, minimizing their visual bulk and prominence. These structures 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. Where rooftop structures are not recessed i.e. parapet, these form part of the overall design of the proposed development and are integrated into the building form, overall mass and are not discernable as a separate building element.

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) The proposal adjoins a recently approved and under construction development with a height of 11 storeys to the north. Recently approved and proposed developments to the east on the opposite side of

the Princes Highway comprise a height of 9 storeys. In this regard the proposal in its current form is not inconsistent with the future desired character and height of buildings envisaged within the Rockdale Town Centre. Given the aforementioned, 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 a land use that provides facilities / services to meet the day to day needs of residents. The proposed development has been designed to appropriately transition to a lower building height than that permitted upon the property to the north. The transition in height on this site is reflective of the potential future redevelopment potential of smaller sites to the south of the property along the western side of the Princes Highway in the Rockdale Town Centre, should amalgamation of properties not occur.

h) The proposal is consistent with the objectives of clause 4.3, 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.

#### 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 in excess of 12m within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. The proposal meets the objectives of this clause.

#### 6.3 Between 25 and 30 ANEF (2033) contours

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located between the 25 and 30 ANEF (2033) contours and as such is affected by aircraft noise. The proposed development will result in an increase in the number of dwellings and people affected by aircraft and in accordance with this clause, the proposed development requires noise mitigation measures.

The proposal was accompanied by an Acoustic Report prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 24/07/2015. The submitted report considered the matter of aircraft noise and provided recommendations in order to ensure acoustic amelioration measures are incorporated into the proposed development. The proposed development complies with the requirements and objectives of this clause.

#### 6.4 Airspace operations

The proposed development is affected by the 50-51AHD Obstacle Limitation Surface (OLS). The proposed development has a height of 41.54RL and thus was referred to Sydney Airports for comment. Sydney Airport responded to Council on 30/10/2015 confirming nil objection to the proposed

development. The proposal satisfies the requirements of this clause.

#### 6.6 Flood Planning Land

The site is affected by flooding and the floor level of the development is required to be raised, with car parking areas also protected appropriately. The ground floor level of the building has been designed in accordance with the requirements contained in Council's Flood Advice Letter, with an appropriate crest level being provided to the basement carpark which is 500mm above the 1 in 100-year flow level. Given the aforementioned the proposal satisfies the objectives and requirements of this clause.

#### 6.7 Stormwater

The proposed development will be able to drain by gravity to a detention system, with over flow directed to proposed new kerb outlets in the Princes Highway, this is subject to RMS approval. The proposal has been conditioned accordingly to ensure the applicant seeks the approval of the RMS.

The proposed stormwater system, OSD and stormwater filter chamber, meets the requirements for a Water Sensitive Urban Design Approach (WSUD) and is consistent with the objectives and requirements of this clause.

#### 6.12 Essential services

Services will generally be available on the site.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes
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 - Shops	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
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
4.7 Air Conditioning and Communication Structures	Yes	No - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	Yes - see discussion
5.3 Mixed Use - Access to Premises	Yes	Yes - see discussion
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
7.5.1 Street Role - Centre Edge Residential	Yes	Yes - see discussion
7.5.1 Residential Apartment Design	Yes	Yes
7.5.1 Parking and Loading	Yes	Yes
7.5.1 Commercial Space	Yes	No - see discussion
7.5.2 Setbacks	Yes	Yes - see discussion
7.5.2 Street Character	Yes	No - see discussion
7.5.2 Arterial Edge	Yes	Yes - see discussion
7.5.2 Laneway	Yes	No - see discussion

#### 4.4.4 Glazing - General Controls

The proposed development provides appropriate sun shading devices during summer for glazed areas facing west and east, including the use of awnings and external screen louvers. The proposal is satisfactory in regards to this clause.

#### 4.4.5 Acoustic privacy

As previously discussed within this report, an Acoustic report prepared by a suitably qualified acoustic consultant was submitted with the application which provided recommendations on appropriate measures to be incorporated into the design of the building in relation to potential acoustic impacts from road, rail, aircraft and mechanical plant noise. The development will also be appropriately acoustically attenuated to ensure acoustic amenity is maximized between inter tenancy units. The proposal satisfies the requirements and objectives of this clause.

#### 4.4.7 Wind Impact

A wind report prepared by ANA Civil Pty Ltd dated 27 November 2017 was submitted to Council on 1 February 2018. The revised report was based upon the final revised plans and the following recommendations are made with respect of ensuring appropriate wind amelioration upon the subject site:

- a) Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings.
- b) Pergolas, canopies and awnings over open areas.
- c) Landscaping such as dense shrubs and trees.
- d) A canopy or pergola on the roof terrace.

Subject to the recommendations of this report and as conditioned, the proposal complies with the provisions of this clause.

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

The development is required to comply with the following unit mix:

Unit	DCP Requirement	Proposed	Complies
1 bed	10% - 30% (4-12)	8 x 1 bed	Yes
2 bed	50% - 75% (20-30)	28 x 2 bed	Yes
3+ bed	10% - 20% (4-8)	3 x 3 bed	No

Notwithstanding the above, the proposal provides for a range of housing within the development to cater to diverse household types. The proposal provides for a range of housing options which will enable changing lifestyle needs and cater to different income groups. The proposal is considered to be consistent with the objectives of this clause. A variation in this instance is deemed satisfactory.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 4 adaptable units are required to be provided within the development. A total of 4 adaptable units are proposed, being units A1.1 / A1.2 / A3.3 / A4.3. The proposal complies with the requirements of this clause.

#### 4.6 Parking Rates - Shops

Plans illustrate the provision of 486sq/m of commercial floor space at ground level in the form of two shops. As per the provisions of this clause and factoring in the applicable Travel Demand Management Concession which permits a 20% reduction of the 'non-residential' component of the parking requirement within the Rockdale Town Centre, the following is required for the development.

- a) 7 commercial car spaces
- b) 2 bicycle and 1 motorbike spaces

Plans illustrate the provision of 7 commercial car spaces, in addition to a total of 5 motorbike and 15 bicycle spaces and the proposal complies with the provisions of this clause.

*Note - Residential car parking requirements are addressed within the Apartment Design Guide section of this report.*

#### 4.6 Access to Parking

Vehicular access to the site is provided via Fox Lane in the form of a proposed 6.193m wide access way along the rear boundary of the subject site. 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 illustrate a dedicated loading / unloading bay on site adjoining the ground level commercial / residential garbage rooms for garbage collection and furniture removal. The applicant has confirmed that private waste collection will contractor will be employed to coordinate waste removal on site.

Concern is raised in respect of the above, as nil internal access from the loading / unloading area to the secondary lift lobby off Fox Lane is provided to facilitate ease of furniture removal for future occupants. The proposal is subject of a deferred commencement condition which requires modifications in this location on site in order to facilitate direct internal access to this lift lobby from the loading / unloading bay on site.

As conditioned the proposal is satisfactory in this regard.

#### 4.6 Car Wash Facilities

Basement level 1 incorporates a dedicated car wash bay on site for use by future occupants. It is of appropriate dimensions and satisfactory in this regard.

#### 4.7 Air Conditioning and Communication Structures

Plans do not illustrate the provision of proposed air conditioning or communication structures on site. Notwithstanding the proposal has been conditioned to ensure that should air conditioning structures be placed on balconies that these be obscured from view of the public domain. Further the proposal is subject to a deferred commencement condition which ensures that details in relation to any potential communication structures to be attached to the development are submitted to Council for review and endorsement.

As conditioned the proposal is satisfactory with the requirements of this clause.

#### 4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of waste chutes within the development, adjoining each lift core within the building. Waste is to be discharged into 1100 litre bins within the waste storage rooms at ground level within the development. A separate waste storage room is provided for the commercial component of the development.

Waste storage rooms are of sufficient dimensions and area to accommodate the proposed development. The proposal provides for appropriate on site waste management and satisfies the provisions of this clause.

#### 4.7 Service Lines/Cables

Final revised plans illustrate the provision of a proposed substation within the proposed building envelope adjoining Fox Lane and the proposed vehicular entry. The proposal is satisfactory in this regard.



#### 4.7 Laundry Facilities and Drying Areas

Residential units are provided with appropriate internal laundry facilities. The proposal satisfies the provisions of this clause.

#### 4.7 Letterboxes

Plans indicate the provision of residential mail boxes adjoining the main entry foyers to the upper residential levels. The proposal complies with the requirements of this clause.

#### 4.7 Hot Water Systems

No details are provided on plans regarding the location of hot water units to residential dwellings. The proposal will be conditioned to ensure that all hot water systems/units located on the balcony of a dwelling 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.

#### 5.2 RFB - Building Entry

Two residential building entries are provided at ground level from both the Princes Highway and Fox Lane. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street, pedestrian connection and the development. The proposal satisfies the requirements and objectives of this clause.

#### 5.2 RFB - Lift Size and Access

The provisions of this clause require the provision of lifts within all residential flat buildings. Lift cars are to have minimal internal dimensions of 2.1m x 1.5m, be accessible from all levels of the building and each dwelling on a level above the sixth storey is to have access to two lifts.

Additionally all common corridors are required to have a minimum width of 2 metres to enable bulky goods (white goods, furniture etc) to be easily transported through the building.

Plans indicate the provision of appropriately sized and located lift cores within the proposed development. Lifts are accessible from basement level to all levels within the development and cross over between lifts is provided within the rooftop communal open space area, enabling future occupants access to two lifts within the building.

Further to the above it is noted that communal corridors within the development are 1.77m - 3.4m, thus a minor component of the corridors are 0.23m deficient with the required corridor width as per DCP 2011. Notwithstanding, it is considered that the corridor widths as proposed are satisfactory as they would enable the movement of bulky goods within the development.

The proposed development is satisfactory with regards to the objectives of this clause.

#### 5.3 Mixed Use - Retail

The proposal is required to provide 10% (369.7sq/m) of the gross floor area of the development as commercial space. Plans indicate the provision of a total of 486sq/m of commercial space on site, this is equivalent to 13.1% and as such complies and exceeds this requirement. The proposal is satisfactory and satisfies the objectives of this requirement.

#### 5.3 Mixed Use - Access to Premises

Access for persons with a disability / mobility impairment has been provided on site from basement to

rooftop levels, including ground floor commercial areas. The proposal satisfies the requirements of this clause.

### 5.3 Mixed Use - Awnings

An awning is proposed to the full length of the Princes Highway and Fox Lane frontages of the site. The awning has a soffit height of 2.9m and its setback is in excess of 600mm. The provisions of this clause require a minimum soffit height of 3.3m and as such the proposal will be conditioned accordingly. The awning will provide appropriate weather protection for users and the proposal is satisfactory with regards to the objectives of this clause.

### 7.5.1 Street Role - Centre Edge Residential

Developments are to comply with the standards for ground floor building uses and access locations set out by this part, with respect to their intended core function. The site is subject to two street frontages and subsequent core functions as follows:

#### *Princes Highway - Contributory Retail*

The proposal incorporates commercial shopfront premises along the frontage of the site to the Princes Highway in addition to a residential entry. The southernmost commercial tenancy wraps the corner to Fox Lane and continues for a length of approximately 12.5m into the site, partially addressing the Fox Lane frontage.

The proposal is consistent with the DCP requirements for the provision of a contributory retail street frontage.

#### *Fox Lane - Service Laneway*

As referred to above, the southern most commercial tenancy wraps the corner to Fox Lane and continues for a length of approximately 12.5m into the site, partially addressing the Fox Lane frontage. A second residential entry lobby is proposed off Fox Lane, with vehicular and service access proposed via the lane as required by the provisions of this clause.

Given the above the proposal satisfies the requirements of this clause.

### 7.5.1 Commercial Space

The proposal does not incorporate the provision of commercial space at first floor level, nor is a higher floor to ceiling i.e. 3.3m at first floor level provided in order to facilitate future commercial conversion. The proposal however provides ample commercial floor space at ground level above that required by the provisions of DCP 2011. The proposal is considered to satisfy the objectives of this clause.

### 7.5.2 Setbacks

The subject site is located within the 'Green Gateway' and as such a 3m setback is required to the Princes Highway frontage of the site. Revised plans incorporate this required setback to ground and upper levels and the proposal thus complies with this requirement.

### 7.5.2 Street Character

The proposal seeks to vary the relevant street character diagrams applicable to the subject site. These have been discussed in detail below.

### 7.5.2 Arterial Edge

The proposed development is required to provide a 3 storey podium setback 3m from the Princes Highway frontage of the site, in order to accommodate the envisaged 'Green Gateway' corridor.

Additionally, levels 4 and above are to be recessed an additional 3m from the podium below, with a side setback of 4.5m at level 4 and above with a minimum building separation distance of 9m to neighbouring buildings.

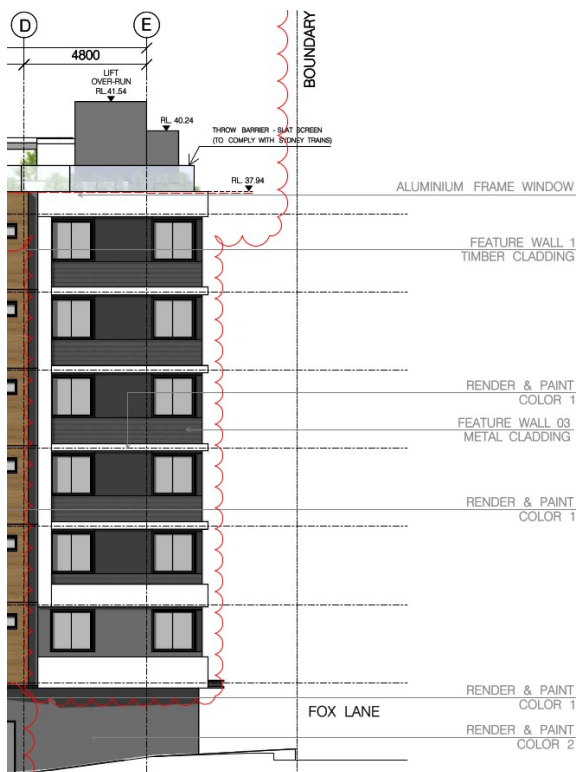
The proposal provides a 3 storey podium, recessed 3m from the front property boundary, with levels 4 and above recessed a further 3m as required by this clause.

Level 4 and above is setback 4.5m from the northern common side boundary of the site as required by the provisions of this clause.

### 7.5.2 Laneway

Along the 'Laneway' frontage of the site, the proposal is required to provide a 3 storey podium built to the property boundary, with levels 4 and above recessed an additional 3m from the podium below.

The ground level of the development and all subsequent levels above are positioned 3m from the Fox Lane boundary of the site. This 3m setback is provided at ground level in order to facilitate a pedestrian pathway to the development. This provides amenity for future occupants and is thus supported.



Whilst the proposal does not strictly comply with the provisions of this clause, the proposal as designed satisfies the objectives of this clause and provides improved public amenity, thus is satisfactory with respect to the objectives of this clause.

### 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**

### Traffic Impacts

The proposal was considered by the Bayside Traffic Development Advisory Committee on 10th August 2016, with revised plans subsequently reviewed on 6th December 2017. The following recommendations were made:

*1. That the applicant needs to undertake road widening to accommodate a two-way traffic flow as well as garbage trucks, for entry and exit in a forward direction from the lane-way without mounting the kerb and footpaths. Swept paths for the same will have to be submitted to traffic team for further appraisal based on technical specifications of Council's garbage vehicles. A minimum 6m width is needed for two-way traffic flow with additional widening required depending on garbage vehicle turning paths.*

Comment: Revised plans illustrate that the proposed built form is setback 3m from the southern boundary to Fox Lane. As a result this allows for the incorporation of a 1m wide footpath along this side, with associated planting of trees and shrubs along the southern boundary of the site. A manual calculation of the revised ground floor plan appears to illustrate that a 6m road width is now possible within Fox Lane kerb to kerb.

The applicant did not submit swept path details.

*2. RMS requires any vehicles entering the laneway including delivery trucks to the property to be able to enter and leave in a forward direction. Appropriate manoeuvring space has to be provided on site.*

Comment: Revised plans facilitate adequate areas for manoeuvring and enable forward entry and exit from the site. The proposal has been conditioned to limit the maximum size of service vehicles on site to a Small Rigid Vehicle, mini rear loader.

*3. That the street lighting be provided in the lane-way as per Ausgrid standards and public domain plan.*

Comment: Nil detail was provided by the applicant in respect of the above.

*4. The power pole at the corner of Fox Lane and Princes Highway, will have to be relocated if the lane is going to be widened.*

Comment: Nil detail regarding the proposed relocation of the power pole was provided by the applicant in respect of the above.

*5. Garbage collection cannot be carried out on street based on existing plans as there is insufficient lane width to enable Council's garbage vehicles to manoeuvre.*

Comment: Correspondance from Waste Wise Environmental dated 8th November 2017, was submitted to Council detailing that private waste collection was proposed to occur on site. It was noted that waste can be collected from the subject site via a SRV mini rear loader. This resolves the matter above.

*6. Works zone cannot be provided in the lane-way due to the narrowness of the street. All construction and delivery vehicles will have to be undertaken within the site. there are other businesses which require access to their properties via the laneway. This access is to be maintained at all times during construction.*

Comment: The above is noted.

Whilst the required information to satisfy the above was not entirely provided, it was concurred with Councils Public Domain Coordinator that appropriate conditions of consent could be imposed to ensure the recommendations above could be achieved.

In this regard the proposal was appropriately conditioned to ensure that prior to the issue of any Construction Certificate, detailed design drawings for both the Fox Lane and the Princes Highway frontages are to be submitted to and approved by Bayside Council's Coordinator Public Domain.

Plans shall include but not be limited to the following information with respect of public domain assets:

- (a) Footpath alignment, width and surface finish;
- (b) Landscaping and tree planting areas;
- (c) Street lighting layout and details as per Ausgrid standards and Councils public domain plan;
- (d) Drainage plus kerb & gutter alignment and details;
- (e) Asphalt pavement detail showing minimum 6m wide carriage way;
- (f) Detailed plan of the intersection of Fox Lane and Princes Highway;
- (g) Removal and relocation of redundant power pole(s) and under grounding of power along Fox Lane and Princes Highway frontages.
- (h) Widening of Fox Lane to a minimum width of 6m, to accommodate two-way traffic flow. Swept paths are to be submitted.

Given the above, as conditioned, the proposal is satisfactory with regard to the recommendations of Councils BTDAC.

### **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 one (1) submission has been received. The issues raised in the submission are discussed below:

*An eleven (11) storey structure seems excessive considering the many high rise structures in the Rockdale CBD are only eight (8) storeys./ Eleven (11) storeys will produce considerable overshadowing to the east of this proposed development over the residential properties and their gardens that have been there for well over 50 years. I do not want hundreds of eyes from such a high rise looking into my property invading my privacy and that of my neighbours. From my back garden*

*we already can see people on their eight-storey balconies in Bryant Street to the south of my property. Therefore eleven storeys will be even more intrusive. Perhaps nine storeys would not be so intrusive / This proposed structure will block some of the western late afternoon sun light over York and George Streets and therefore my property and that of my neighbours in George Street.*

Comment: Matters relating to height, overshadowing and visual privacy have been previously addressed in this report.

*Vehicles going in and out of the premises could also cause more congestion onto the already congested Princes Highway.*

Comment: Matters relating to traffic and car parking have been previously addressed in this report.

*This proposed structure is under the flight path. When my parents bought my property over 50 years ago they were advised by the relevant authorities that there was a height restriction in this area being under the flight path.*

Comment: The maximum permissible height limit as permitted by RLEP 2011 has taken into consideration the requirements of Sydney airport.

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

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

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

A Section 94 Contribution Payment is payable given the proposed increase in residential density on site, in accordance with Council's Policy, The proposal has been conditioned accordingly.

## **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.

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
<b><i>Architectural Plans</i></b>			
Site Plan Issue D (A-0100)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Basement 4 Floor Plan Issue D (DA-1101)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Basement 3 Floor Plan Issue D (DA-1102)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Basement 2 Floor Plan Issue D (DA-1103)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Basement 1 Floor Plan Issue D (DA-1104)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Ground Floor Plan Issue D (DA-1105)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
First Floor Plan Issue D (DA-1106)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Second Floor Plan Issue D (DA-1107)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Third Floor Plan Issue D (DA-1108)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Fourth Floor Plan Issue D (DA-1109)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Fifth Floor Plan Issue D (DA-1110)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Sixth Floor Plan Issue D (DA-1111)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Roof Plan Issue D (DA-1114)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
East Elevation Issue D (DA-1200)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
South Elevation Issue D (DA-1210)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
West Elevation Issue D (DA-1220)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
North Elevation Issue D (DA-1230)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Section AA Issue D (DA-1240)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Section BB Issue D (DA-1250)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Section CC Issue D (DA-1255)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Adaptability Details Issue D (DA-1400)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
Adaptability Details Issue D (DA-1401)	Architecture and Building Works Pty Ltd	08/11/2017	13/11/2017
<b><i>Landscape Plans</i></b>			

Drawing IS0181DA1 (Rev D) to IS0181DA6	i2thmus Landscape Design	01/11/2017	13/11/2017
---	-----------------------------	------------	------------

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 637922M\_04 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 property. 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 and car spaces 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. All works are to be carried out in accordance with the integrated development conditions provided by the NSW Office of Water and listed at the end of this consent.
13. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

#### **Allocated Spaces**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments 1 space per apartment

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

Commercial Units 1 space per 40m<sup>2</sup> 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*.

#### 14. Work Activities on Council Sites - Application Requirements

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.

1. 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.
2. 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 a mobile crane, concrete truck, concrete pump or other similar vehicles.
3. 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.
4. 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.
5. 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.
6. Temporary Shoring/Support (EP09) - This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
7. 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.
8. 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.
9. 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.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

15. Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not to be discharged into the corridor unless prior approval has been obtained from RailCorp.
16. The design and construction of the off-street parking facilities shall:  
Comply with Australian Standards, as follows:
  - AS/NZS 2890.1:2004
  - AS2890.2:2002
  - AS2890.3:1993
  - AS/NZS2890.6:2009
  - Comply with Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.
  - 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.
  - Provide for a raised median between ingress and egress lanes of access driveways to allow for installation of entry and communication systems at basement entry door.
  - Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
  - The visitor parking should be conveniently located close to the ingress and egress location and the tenant parking should be able to be securely separated from the visitor parking area. One (1) visitor parking space shall be marked for use by a Van for loading and unloading purposes, and be a minimum dimension of 5.4m x 3.0m, with an unrestricted height clearance of 2.3m.
  - The SRV loading dock area to have a minimum of 3.5m height clearance.
  - In addition to a Ground level SRV loading bay, to make provision for two VAN loading bays having direct access to lift lobbies within the basement.
  - Two (2) visitor parking space shall be marked for use by a Van for loading and unloading purposes, and be a minimum dimension of 5.4m x 3.0m, with an unrestricted height clearance of 2.3m.
  - 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.
  - The basement driveway design has to ensure that all traffic give priority to incoming vehicles. Signage and convex mirrors or similar will have to be installed and certified by a professional Traffic Engineer.
17. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the

design requirements of AS2890.1.

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

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

Implement all recommendations contained in the Overland Flow Study prepared by S & E Ivanov Consultancy, dated 6 July 2014.

22. The overland flow path shall not be obstructed, restricted or altered without the approval of Rockdale City Council.

23. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.
24. 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.
25. 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.
26. 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.
27. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
28. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
29. 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.
30.
  - a) In order to ensure the design quality excellence of the development is retained:
    - i. Architecture and Building Works 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 Council prior to release of the Construction Certificate.
  - b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
31. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
32. Landscaping
  - a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
  - b) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
  - c) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
  - d) 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.

33. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:
- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
  - b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
34. Residential air conditioners must be designed so as not to operate:
- during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
  - during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.
- Note - peak time means:*
- the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
  - the time between 7:00 am and 10:00 pm on any other day.
35. The contaminated site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). All remediation works shall be carried out in accordance with the Site Remedial Action Plan prepared by EI Australia dated 29 January 2018 (Report No. E23577.E06.Rev1).
36. Recommendations contained in the acoustic report prepared by Acoustic Noise & Vibration Solutions, dated 25/01/2018 in relation to mechanical ventilation systems and noise / vibration near railway lines shall be implemented on site.
37. Telstra require the developer to contact 1800 810443 and provide a work method statement and drawing prior to building adjacent to the Telstra easement.
38. The recommendations of the Remediation Action Plan prepared by EIAustralia ref: E23577 E06-Rev0 dated 13 December 2017 shall be implemented on site.
39. The recommendations of the Wind Report prepared by ANA Civil Pty Ltd dated 27 November 2017, submitted to Council on 1 February 2018 are to be implemented on site.

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

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

40. 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 \$10,910.00. 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.

41. Plans submitted with the Construction Certificate shall demonstrate compliance with the following and be approved by the PCA prior to the issue of the Construction Certificate:

1. All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed.
2. All vertical plumbing, other than roof water heads and downpipes, shall be concealed within the brickwork of the building.
3. 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.
4. Relevant objectives and design code requirements of the Building Code of Australia 2015 / DDA Premises Standard pertaining to accessible common domain areas and access to all apartments and the Adaptable Housing standard AS4299 for four (4) adaptable units.
5. Acoustic Attenuation - The noise reduction measures specified in the noise report prepared by Acoustic Noise and Vibration Solutions Pty Ltd (rev 1) 25/01/2018 dated shall be shown in the construction plans.
6. Awnings shall comprise a minimum soffit height of 3.3m from finished footpath level. Awnings are to be setback a minimum of 0.6m from the kerb.
7. All fire boosters, hydrants, substations, services and the like shall remain concealed within the building envelope.
8. 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.
9. Balustrades to balconies are to comprise opaque / frosted glass only.
10. The recommendations of the Wind Report prepared by ANA Civil Pty Ltd (rev 1) dated 27/11/2017 are to be shown on CC plans.
11. Permeable pavers shall be provided at ground level forward of the building line in the location of the proposed pedestrian access areas.
12. *Safer by Design*
  - a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
  - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - c) Security mirrors shall be installed within corridors and on blind corners to

enable users to see around blind corners.

d) Graffiti resistant materials shall be used to ground level external surfaces.

e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.

42. 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.
43. A Section 94 contribution of \$2,659,96.60 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor.  
(Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan. Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
44. 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.
45. 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.

46. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.

47. Acoustics

A) 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.

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

48. 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 four (4) residential units, and between these units and their allocated car parking spaces. Allocated parking spaces 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.

49. 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.

50. The applicant shall confer with Energy Australia to determine if installation of electricity conduits in the footway is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.

### **Ausgrid**

(i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electrical conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.

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

The relocation of the existing electricity supply pole in the road reserve at the junction of Fox Lane and the Princes Highway, is required to avoid conflict with the widening of Fox Lane. 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 Ausgrid's requirements shall be obtained prior to the issue of a Construction Certificate.

51. 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.
52. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water 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.

Sydney Water's Tap in™ online service is available at:

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

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

- i) Construction of footpath and streetscape works.
- ii) Public domain and drainage work.
  - Footpath alignment, width and surface finish;
  - Landscaping and tree planting areas;
  - Street lighting layout and details;
  - Drainage plus kerb & gutter alignment and details;
  - Asphalt pavement detail showing minimum 6m wide carriageway;

- Detailed plan of the intersection of Fox Lane and Princes Highway;
- Removal of redundant power pole(s) and proposal for undergrounding of power along Fox Lane and Princes Highway frontages.

iii) Construction of vehicular entrance.

54. 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.
55. 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.
56. 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.

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

- (a) Implement all recommendations contained in the report prepared by Douglas

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

(c) Confirm that the proposed construction methodology

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

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

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking/waterproofing).

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

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

58. 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.*

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

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

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

Note:

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

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

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

60. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals comply with the conditions of consent.
61. The low level driveway must be designed to prevent inflow of water from the road reserve, and road reserve - 1% AEP. 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.
62. Prior to the issue of Construction Certificate, swept path analysis shall be submitted to Certifying Authority for assessment and approval.

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

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

63. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
64. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with DCP 78-Stormwater Management.
65. 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.
66. All basement surface runoff 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.

67. 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.

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

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

The design shall take into consideration of geotechnical recommendations.

Note:

- a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management.
- b. The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management. Implement all recommendations contained in the preliminary geotechnical investigation report prepared by Douglas Partners Pty Ltd, Report Ref: Project 84654, dated 30 January 2015.
- c. Since the site is subject to MFL, the design of the basement carpark access ramp crest level is to be 500mm above the 1 in 100-year flow level.
- d. In accordance with Technical specification – Stormwater Management to recheck and provide stormwater control details to the driveway area draining to the basement.
- e. The site is subject MFL restriction. The minimum floor levels applying to the site, identified by the Overland Flow Study by S & E Ivanov Consultancy, dated 6 July 2014.

68. *Work Activities on Council Sites - Application Requirements*

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.

(a) 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.

(b) Stand and Operate Registered Vehicle or Plant (EP03)

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

similar vehicles.

(c) 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.

(d) 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.

(e) 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.

(f) Temporary Shoring/Support (EP09)

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

(g) 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.

(h) 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.

(i) 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.

69. Sydney Trains

The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- Machinery to be used during excavation/construction.
- Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring
- If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.
- No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- Prior to the commencement of works the Applicant shall peg-out the common

property boundary with RailCorp's land. This work is to be undertaken by a registered surveyor.

- The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.
- During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- Drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.
- Sydney Trains and Transport for NSW, or any persons authorised by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
- Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- The Applicant is to ensure that the development incorporates appropriate anti-graffiti measures acceptable to Sydney Trains.
- Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
- The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the



proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorized access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

- The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorized access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

- Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.

- Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

- Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

- Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- The Applicant must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted

to Sydney Trains prior to the issuing of the Occupancy Certificate. The Principle Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.

- No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.
- No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.
- There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to Sydney Trains for review.
- As Fox Lane provides access to the rail corridor, including for emergencies, this lane way shall be left unobstructed for any building related vehicles, equipment or materials unless agreed to by Sydney Trains. In addition, no vehicles, equipment or materials are to be parked or placed on rail land.

70. Prior to the issue of any Construction Certificate, detailed design drawings for both the Fox Lane and the Princes Highway frontages are to be submitted to and approved by Bayside Council's Coordinator Public Domain.

Plans shall include but not be limited to the following information with respect of public domain assets:

- (a) Footpath alignment, width and surface finish;
- (b) Landscaping and tree planting areas;
- (c) Street lighting layout and details as per Ausgrid standards and Councils public domain plan;
- (d) Drainage plus kerb & gutter alignment and details;
- (e) Asphalt pavement detail showing minimum 6m wide carriage way;
- (f) Detailed plan of the intersection of Fox Lane and Princes Highway;
- (g) Removal and relocation of redundant power pole(s) and under grounding of power along Fox Lane and Princes Highway frontages.
- (h) Widening of Fox Lane to a minimum width of 6m, to accommodate two-way traffic flow. Swept paths are to be submitted.

## **Prior to commencement of works**

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

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

72. 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.

73. 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.
74. 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.
75. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
- hazard identification and control
  - site security
  - personal protective equipment
  - work zones and decontamination procedures
  - contingency plans and incident reporting
  - environmental monitoring.
76. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
77. 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.
78. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
79. (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:

(i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

(ii) building involves the enclosure of a public place,

(b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

(c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

(i) the vertical height above footpath level of the structure being demolished is less than 4m; or

(ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

(i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

(ii) have a clear height above the footpath of not less than 2.1m;

(iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa. The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.

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

80. 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.

81. Consultation with Ausgrid, Telstra, Sydney Water and Railcorp 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.

82. 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.

83. 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.
84. 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.
85. 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.

86. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
87. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

88. 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.
89. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.

90. 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.
91. 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.

92. 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.
93. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of

contaminated land.

94. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
95. 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.
96. 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.

- 97. 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.

- 98. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 99. 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.

100. 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.
101. 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.
102. 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.
103. 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.
104. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council or the RMS satisfaction at the applicants expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
105. 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.
106. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
107. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
108. 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.
109. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's

expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.

110. 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.
111. The vehicular entry in Fox Lane is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
112. A convex mirror is to be installed at blind corners to provide increased sight distance for vehicles.

The single lane 2-way ramps shall be controlled by traffic signals with the following operational mode:

- Automatically revert to and dwell on green for incoming
  - Outgoing driver activates push button
  - Signals change to red for incoming and green for outgoing
  - After a pre-set clearance time signals revert to red for outgoing and green for Incoming.
113. The provision of a 1.2metre wide right of footway in favour of Bayside Council along the boundary with Fox lane frontage. The right of footway is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.  
Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.
  114. The dedication to Council of a portion of the site as along the length of the southern boundary for road widening purposes to facilitate two way vehicular movement in Fox Lane as per the deferred commencement condition and all other conditions of this consent. Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office.
  115. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
  116. Bollards to accessible car spaces on site are to be installed by the Developer. Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to be installed a minimum of 900mm into the ground and are to be 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.
  117. 57 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.
  118. 57 off-street basement car spaces and two (2) Van Spaces (bay width of 3.0m) shall be provided in accordance with the submitted plan and shall be linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
  119. 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](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

120. 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.
121. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
122. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
123. 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.

Acoustic recommendations in relation to rail noise, vibration and plant emissions contained in the report prepared by Acoustic Noise & Vibration Solutions Pty Ltd, reference 2015-310, dated 25 January 2018 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.

124. Prior to issue of an Occupation Certificate, a measurement report from a qualified acoustic consultant shall be submitted, demonstrating compliance with the noise criteria.  
As a minimum, this report shall provide the LA<sub>max</sub> and LA<sub>E</sub> noise levels of at least ten consecutive trains, measured in the habitable room potentially most affected by train noise. The report shall include the calculated maximum LA<sub>eq</sub> (1 hour) noise levels for day and night-time periods, taking into account the maximum number of trains per hour and the types of trains in each period.
125. 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.
126. 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.
127. 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.

128. 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.
129. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.
130. A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.
131. A covenant shall be registered on the title of the land giving notice of the former use, contamination of the site and the existence of the contaminated material remaining on the land. Documentary proof of the registration shall be provided to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate.
132. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
133. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial floor level and lift access level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
134. 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.
135. 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.
136. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 13 April 2015, Ref: F08/691, FA-2015/37.
137. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:

- a) The stormwater detention facility to provide for the maintenance of the system; and  
b) Ramp control traffic signals.
138. 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.

139. The outside finished ground level shall be constructed a minimum of 200mm below the habitable floor level for the whole building perimeter.
140. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".

### **Integrated development/external authorities**

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

141. Sydney Water

*Water*

- The development can be serviced by the existing 150mm drinking water main in Princes Highway.
- Detailed drinking water requirements will be provided at the S73 application phase.

*Wastewater*

- The development can be serviced by the existing 225mm wastewater main in Princes Highway.
- Detailed wastewater requirements will be provided at the S73 application phase.

142. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 49.2metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

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

143. **Roads and Maritime Service**

- i. The Roads and Maritime has no approved proposal that requires any part of the subject property for road purposes. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary. The

proponent should also be advised that the subject property is within a broad area currently under investigation in relation to the proposed Westconnex Project. In this regard further information can be obtained at [www.westconnex.com.au](http://www.westconnex.com.au) or by contacting Westconnex for further information - [info@westconnex.com.au](mailto:info@westconnex.com.au) or by calling 1300 660 248.

ii. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

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

iii. 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  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone (02) 8849 2114  
Fax (02) 8849 2766

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

iv. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.

v. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.

vi. All vehicles are to enter and leave the site in a forward direction.

vii. The proposed development should be designed such that road traffic noise from Princes Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.

144. **NSW Office of Water**

**General**

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

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

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

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

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

C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

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

5. DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report- which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report).

Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be

presented in Excel spreadsheets without editing restrictions.

### **Prior to excavation**

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

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

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

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

(d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes).

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

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

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



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

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

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

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

### **During excavation**

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

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

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

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

18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any

management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

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

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

### **Following excavation**

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

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

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

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

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

### 145. Ausgrid

A) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements.

B) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010).

C) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006).

## **Roads Act**

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

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

Note:

- a. Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.
- b. Traffic Committee approval Line marking and regulatory signage shall be in accordance with RMS requirements and guidelines and shall be approved Bayside Traffic Committee.

147. 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.
148. 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.
149. 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 Princes Highway and Fox Lane frontages:

(i) Detailed design plans and specifications, including structural details and compliance with the requirements of any relevant condition of this consent and

(ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural). The awning design shall comply with following requirements of Rockdale Development Control Plan 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 Bayside 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.

150. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

## Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. 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.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. *Dial Before You Dig*

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

- e. *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.

- f. 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.
- g. 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.

- h. 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.
- i. 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.
- j. 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".
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. 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.
- m. A works zone will not be permitted in Fox Lane. All construction, loading / unloading and deliveries are to occur on site. Vehicular access to sites benefiting from access via Fox Lane is to be maintained at all times during construction.

---

**Bayside Planning Panel**

**12/09/2017**

Item No	5.2
Application Type	Development Application
Application Number	DA-2016/150
Lodgement Date	22 October 2015
Property	<b>401-405 Princes Highway, Rockdale</b>
Owner	Mr & Mrs Ibrahim & Ibrahim Pastry Pty Ltd
Applicant	Architecture & Building Works Pty Ltd
Proposal	Integrated Development - Construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking.
No. of Submissions	1
Cost of Development	\$17,219,801
Report by	Fiona Prodromou, Senior Assessment Planner

---

**Officer Recommendation**

A That Development Application DA2016/150 for the construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking at 401-405 Princes Highway Rockdale, be REFUSED pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:

- 1 Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following principles of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development:
  - a) Principle 1 – Context and Neighbourhood Character
  - b) Principle 2 – Built Form and Scale
  - c) Principle 3 – Density
  - d) Principle 4 – Sustainability
  - e) Principle 5 – Landscape
  - f) Principle 6 – Amenity
  - g) Principle 7 - Safety
  - h) Principle 9 – Aesthetics
- 2 Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of State Environmental Planning Policy - No 55—Remediation of Land.
- 3 Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of State Environmental Planning Policy - BASIX.

- 4 Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following requirements or objectives of Rockdale LEP 2011:
  - a) Clause 4.3 – Height of Buildings
  - b) Clause 4.6 – Exceptions to Development Standards.
  - c) Clause 6.6 - Flood Planning
  - d) Clause 6.7 - Stormwater
  
- 5 The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:
  - a) 4.1.3 - Water Management / Flood Risk Management
  - b) 4.2 - Streetscape and Site Context
  - c) 4.4.7 - Wind Impact
  - d) 4.6 - Design of Loading Facilities
  - e) 4.7 - Air Conditioning and Communication Structures / Services Lines and Cables / Waste Storage and Recycling Facilities
  - f) 5.3 - Mixed Use (Retail)
  - g) 7.5.1 - Commercial Space
  - h) 7.5.2 - Street Character / Laneway
  
- 6 Having regard to the above non-compliances and pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.
  
- 7 Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development has not been adequately demonstrated.
  
- 8 Pursuant to the provisions of Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 and Clause 54 of the Environmental Planning and Assessment Regulation 2000, insufficient information has been provided by the applicant to enable a proper and thorough assessment of the impacts of the proposed development.
  
- 9 Having regard to the reasons noted above, pursuant to the provisions of Section 79C(1)(d) and Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

B That the objector be advised of the Bayside Planning Panel's decision.

---

## Attachments

- 1 Assessment Report
- 2 Site Plan

- 3 North Elevation
  - 4 South Elevation
  - 5 East Elevation
  - 6 West Elevation
  - 7 Section AA
  - 8 Section BB
  - 9 Shadow Diagrams 1
  - 10 Shadow Diagrams 2
  - 11 Landscape Plan
  - 12 Amended Clause 4.6 – Exception to Development Standard
  - 13 Registered 88B and Linen Plan
- 

## Location Plan



Fig 1 – Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/150
<b>Date of Receipt:</b>	22 October 2015
<b>Property:</b>	401 Princes Highway, ROCKDALE (Lot 100 DP 1097898)
<b>Owner(s):</b>	Mr Ibrahim Ibrahim Mrs Pelin Ibrahim Ibrahim Pastry Pty Ltd
<b>Applicant:</b>	Architecture & Building Works Pty Ltd
<b>Proposal:</b>	Integrated Development - Construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking.
<b>Recommendation:</b>	Refused
<b>No. of submissions:</b>	1
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	22 August 2017

### Key Issues

---

The proposal in its current form is inconsistent with the provisions of relevant state policies, being State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development, State Environmental Planning Policy - BASIX and State Environmental Planning Policy No 55—Remediation of Land for the reasons outlined within this report.

A maximum height limit of 22m applies to the subject site as per the provisions of Clause 4.3 - Height of Buildings Rockdale LEP 2011. Clause 4.3 (2A) permits a 'bonus height' of 12m for certain sites within the Rockdale Town Centre, subject to the lot having an area of at least 1,500 square metres. The lot, subject of this application, comprises a total site area of 1306sq/m, being 194sq/m deficient of the lot area required to be eligible for the aforementioned height bonus. Accordingly the site is not eligible for additional height provided by the bonus.

The proposal seeks to construct a development with a height of 25.15m - 34.17m. This is a breach of the applicable 22m height standard by 3.15m - 12.17m inclusive of lift / stair overruns and represents a 14.3% to 55.3% proposed variation to the maximum permissible height limit for the site.

Where a site complies with the lot requirements and seeks to benefit from the 'bonus height' provisions referred to above, the provisions of Clause 6.14 - Design Excellence apply, and applicants are required to partake in a 'design competition' process prior to the lodgement of a development application with Council. This process has not been followed by the applicant. Notwithstanding it is reiterated that the applicants site is of insufficient overall area so as to benefit from the bonus height provisions.

The proposed height variation as sought by the applicant is not supported for the reasons outlined within Clause 4.6 - Exceptions to Development Standards as detailed within this report.

The proposal in its current form does not comply with the provisions of Rockdale DCP 2011 in relation to water management, streetscape and site context, wind impact, design of loading facilities, site services and level of commercial space proposed. These matters are discussed in more detail in the planning report.

A number of easements burden the site, these benefit Telstra and Bayside Council. Basement levels and the first floor of the development protrude into easements which are required by Telstra to ensure unobstructed access and clearance to the Telstra Exchange Facility adjoining the site to the north west. The applicant has not provided Council with documentation confirming that Telstra agree to modify and / or remove these easements, in order to enable the proposed design to proceed. The proposal also protrudes into the right of footway easement benefitting Bayside Council. No discussions have been held with Council in relation to the aforementioned as proposed.

The applicant has not submitted a revised BASIX, Stormwater Plans, Wind or Traffic Reports to Council as would be necessitated by the submission of the amended plans. Additionally, solar access to the proposed development is reduced as a result of the recently approved development at 397 Princes Highway on the northern neighbouring site. The applicant has not taken this into account the shadow of this recently approved building and therefore the solar access levels achieved to the development in midwinter are unable to be ascertained. Insufficient information has thus been provided to Council in this regard.

The applicant was invited to withdraw the application on numerous occasions or revise their plans to comply with the relevant height standard for the site. This has not occurred to date and the applicant did not seek to withdraw the application.

## Recommendation

---

A. That Development Application DA2016/150 for the construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking at 401-405 Princes Highway Rockdale, be REFUSED pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:

1. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following principles of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development:

- a) Principle 1 – Context and Neighbourhood Character
- b) Principle 2 – Built Form and Scale
- c) Principle 3 – Density
- d) Principle 4 – Sustainability
- e) Principle 5 – Landscape
- f) Principle 6 – Amenity
- g) Principle 7 - Safety
- h) Principle 9 – Aesthetics

2. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of State Environmental Planning Policy - No 55—Remediation of Land

3. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of State Environmental Planning Policy - BASIX.

4. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following requirements or objectives of Rockdale LEP 2011:

- a) Clause 4.3 – Height of Buildings
- b) Clause 4.6 – Exceptions to Development Standards.
- c) Clause 6.6 - Flood Planning
- d) Clause 6.7 - Stormwater

5. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:

- a) 4.1.3 - Water Management / Flood Risk Management
- b) 4.2 - Streetscape and Site Context
- c) 4.4.7 - Wind Impact
- d) 4.6 - Design of Loading Facilities
- e) 4.7 - Air Conditioning and Communication Structures / Services Lines and Cables / Waste Storage and Recycling Facilities
- f) 5.3 - Mixed Use (Retail)
- g) 7.5.1 - Commercial Space
- h) 7.5.2 - Street Character / Laneway

6. Having regard to the above non-compliances and pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.

7. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development has not been adequately demonstrated.

8. Pursuant to the provisions of Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 and Clause 54 of the Environmental Planning and Assessment Regulation 2000, insufficient information has been provided by the applicant to enable a proper and thorough assessment of the impacts of the proposed development.

9. Having regard to the reasons noted above, pursuant to the provisions of Section 79C(1)(d) and Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

B. That the objector be advised of the Bayside Planning Panel's decision.

# Background

---

## History

Prior to DA lodgement plans of the proposal were submitted to the Design Review Panel for consideration on two occasions being 19 August 2014 and 13 November 2015. On both occasions the DRP raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions of RLEP 2011. Concerns were also raised in regards to the height, bulk, scale and density of the proposal.

23 October 2016 DA-2016/150 submitted to Council

Construction of an eleven (11) storey mixed use development comprising 69 residential units and 2 commercial units with basement parking.

3 November - 4 December 2015 Public notification of proposal.

13 November 2015 consideration by Design Review Panel. The DRP once again raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions, bulk, scale, density, solar access, design and provision of communal open space, management of portions of the site burdened by easements, residential amenity and potential areas of concealment.

12 May 2015

Letter sent to applicant raising issues of the DRP, matters raised by Sydney Trains, Sydney Airports and Council's concerns including but not limited to Height, building separation, insufficient setbacks, solar access, insufficient communal open space provision and unsatisfactory design, inappropriate unit mix, insufficient information.

The issues raised within correspondence to the applicant were a direct consequence of the size of the subject site and density sought to be achieved. The applicant was advised that a significant reduction in the height and gross floor area of the development was required in order to resolve the issues raised, ensure a satisfactory built form and streetscape response and to ensure that residential amenity to future occupants and neighbouring properties is retained and maximised.

The applicant was requested to withdraw the application.

6 June 2016

The applicant did not seek to withdraw the application and thus submitted a revised scheme to Council on 6 June 2016, proposing a part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with basement parking.

4 August 2016

Reconsideration by Design Review Panel. DRP reiterated concerns previously raised.

24 August 2016

Applicant was emailed to advise of issues related to DA which require resolution. These matters included but were not limited to easements affecting the site, excessive height, unsatisfactory design and amenity issues, Traffic Committee requirements, insufficient information, engineering and stormwater matters.

6 September 2016

Meeting with applicant to discuss issues. Applicant was advised variations would not be supported and plans required substantial amendment to be brought into compliance. It was further advised that matters relating to easements required discussion with Telstra.

8 November 2016

Applicant emails Council to advise they are still in discussions with Telstra regarding easements affecting the property.

7 March 2017

Applicant pursues meeting with Director City Futures and Place Outcomes Team to discuss potential closure / purchase of Fox Lane in order to obtain a site area greater than 1500sq/m and be eligible for the RLEP height bonus. Amongst other matters, it was noted in this meeting that the proponent would be required to obtain in-principle support from Sydney Trains for the extinguishment / deletion of Fox Lane as this provides access to Sydney Trains land to the rear of the subject site. Should the applicant be successful a Design Competition would be required as per RLEP 2011 and a new DA to be lodged.

26 April 2017

Applicant invited via email to withdraw the DA. Applicant did not agree to withdraw the DA.

11 August 2017

Applicant advised to withdraw application as assessment of the application was being finalised. Applicant did not agree to withdraw the DA.

23 August 2017

Applicant seeks to submit amended plans yet these are rejected, as the assessment of the application had been finalised prior to this date and the information sought to be submitted to Council was incomplete and contrary to the requirements of Clause 55 of the Environmental Planning and Assessment Regulation 2000.

## **Proposal**

The proposal seeks to undertake the construction of part 8, part 11 storey mixed use development comprising 57 residential units and 2 commercial units with four basement levels incorporating residential and commercial on site parking. The proposed development incorporates as follows:

Basement 4 (FFL 2.45RL - 2.9RL)

21 car spaces, 3 bicycle spaces, 1 motorbike space, pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

Basement 3 (FFL 5.45RL - 5.9RL)

20 car spaces, 5 bicycle spaces, 1 motorbike space, pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

Basement 2 (FFL 8.45RL - 8.9RL)

17 car spaces (including 6 accessible), 5 bicycle spaces, 1 motorbike space, pedestrian and vehicular circulation, two lift cores, residential storage, fire stairs.

Basement 1 (FFL 11.45RL - 11.90RL)

17 car spaces (including 1 accessible), 2 motorbike spaces, pedestrian and vehicular circulation, two lift cores, fire stairs, plant / service rooms and accessible toilet facility.

#### Ground Level (FFL 14.84RL - 15.24RL)

Retail space 2 (183sq/m + 160sq/m 'seating' area within building envelope) fronting Princes Highway, with accessible chair lift to main entrance of this tenancy. Recessed residential lobby to Princes Highway, letter boxes and hydrant boosters. Retail space 1 (158sq/m) fronting Princes Highway and wrapping the corner to Fox Lane via full height glazed facades. The primary access to retail space 1 is via Princes Highway, yet a second pedestrian access is also provided via Fox Lane. Retail tenancies have independent toilet facilities.

The ground level of the proposed building is setback 3m from the existing front property boundary of the site to the Princes Highway and 3m from the existing property boundary to Fox Lane. The area forward of the building line at ground level in these locations is proposed to comprise as follows:

- a. Princes Highway frontage - Paving, three planter beds comprising 4 trees (Crab Apple, 4m - 6m mature height) and shrubs (False Cardamom Ginger, 1.5m - 2m mature height).
- b. Fox Lane frontage - Paving, three planter beds comprising 8 trees (Blueberry Ash, 4m - 6m mature height) and shrubs (False Cardamom Ginger, 1.5m - 2m mature height).

An awning structure is proposed along the Princes Highway and Fox Lane frontages of the site.

Four (4) fire exit stairs front and exit onto Fox Lane. A second residential lobby with letterboxes is also provided. Vehicular access to the site is proposed via Fox Lane, with a substation proposed to be located adjoining the vehicular entry.

The ground floor of the development further incorporates a loading / unloading bay for an SRV, plant rooms, designated residential and commercial garbage storage rooms.

#### Level 1 (FFL 18.84RL)

6 residential dwellings with associated private open spaces, podium level communal open space, lift / stairwell access, garbage chute, recycling and services cupboards. Level 1 communal open space is tiled with a planter box incorporating mass planting of shrubs to a mature height of 5m provided along the northern side boundary.

#### Level 2 (FFL 21.89RL)

8 residential dwellings with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards.

#### Level 3 (FFL 24.94RL)

7 residential dwellings with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards.

#### Level 3 (FFL 24.94RL) Level 4 (FFL 27.99RL) Level 5 (FFL 31.04RL) Level 6 (FFL 34.09RL) Level 7 (FFL 37.14RL) (per floor)

7 residential dwellings with associated private open spaces, lift / stairwell access, garbage chute, recycling and services cupboards.

#### Level 8 (FFL 40.09RL - 40.19RL)

Communal open space area, incorporating tiled flooring, balustrading, periphery planter boxes, bbq facilities, two arbour areas, seating, internal communal kitchen and toilet. 4 residential units with associated private open space areas, lift / stairwell access, garbage chute, recycling and services cupboards.

Level 9 - 10 (FFL 43.24RL - 46.29RL)

4 x 2 storey residential units with associated private open space areas, lift / stairwell access, garbage chute, recycling and services cupboards.



*Proposed development viewed from Princes Highway.*

## **Site location and context**

The subject site is 401-405 Princes Highway, Rockdale which is currently vacant with industrial building waste across the site. The development site consists of Lot 100 in DP 1097898. The subject site has two street frontages to Princes Highway (east) and Fox Lane (south). The subject site is irregular in shape and comprises of a 26.015 metre eastern Princes Highway boundary, a 2.37 metre south-eastern splay to the corner of Fox Lane and Princes Highway, a 43.075 metre southern Fox Lane boundary, a 26.6 metre western boundary abutting the Illawarra line railway, a 25.82 metre (part) northern boundary, a 7.705 metre (part) western boundary and a 27.1 metre (part) northern boundary. The development site area is approximately 1306m<sup>2</sup>.



*Figure 1 - Aerial context of site (outline in blue)*



The site is currently vacant and appears to be used as a builders yard. The site has a fall of approximately 1m from the rear to the front property boundary. The site is burdened by a number of easements, including an easement for telecommunications and an overlapping easement for services and drainage of water (both 7.5m wide) along the north-eastern edge of the site, a right-of-footway (900mm wide) and an easement for drainage (1.83m wide) along the southern edge of the site.

To the north-west of the subject site is No.397A Princes Highway which is occupied by a two storey brick telephone 'Telstra' exchange building with basement level occupied by significant and substantial cabling. Telecommunication antennas exist on the roof and vehicular access is provided to this site from an unnamed laneway off Princes Highway. The subject site is burdened by the following easements and rights of way for the purposes of telecommunications, services, access and drainage as follows;

- A / B. Easement for telecommunications & drainage purposes, 7.5m wide, limited in height, along the northern side boundary of the site with 397A Princes Highway.
- C. Right of Access and easement for parking 6.2m wide, part limited in height, running the length of the rear boundary of the site.
- D. Right of footway 0.9m wide limited in height, running the depth of the site from the Princes Highway to the rear boundary of the property.
- E. Easement for drainage 1.83m wide, running the depth of the site from the Princes Highway to the rear boundary of the property.
- F. Easement for access and drainage variable width
- G. Area of easement 1.1m wide unlimited in height and depth running the width of the rear boundary of the site.
- H. Area of easement 5.1m wide, limited in height to RL19 and unlimited in depth, running the width of the rear boundary of the site.

To the north of the subject site is No.397 Princes Highway 'The Small Car Shoppe' a car sales yard with a demountable aluminium car sales office and awning. The site has no permanent buildings and comprises a total site area of 1696sq/m and is eligible for a 12m height bonus as per Rockdale LEP 2011. DA-2016/420 for the construction of an eleven (11) storey mixed use development comprising 91 residential units, 3 commercial units & three levels of basement parking was approved on 3 August 2017 on this property. The DA at 397 Princes Highway Rockdale was lodged following the conclusion of a Design Competition of the site, as required by Clause 6.14 of Rockdale LEP 2011.

To the east of the subject site, opposite Princes Highway, is No.386-388 Princes Highway 'Snow & Water Skiers Warehouse' a two-storey brick render commercial/retail shop with windows on the upper floor levels fronting Princes Highway. Vehicular/loading bay access is from the rear King Lane.

To the south-east of the subject site, opposite Princes Highway, is No.390 Princes Highway a two-storey brick render commercial/retail shop with windows on the upper floor levels fronting Princes Highway. Vehicular/loading bay access is from the rear King Lane. Also to the south-east of the subject site is No.394-396 Princes Highway is also a two-storey brick render commercial/business premises with windows on the upper floor levels fronting Princes Highway.

To the south is No.407 Princes Highway 'Paint Trade Centre' which is a two-storey brick render warehouse building with vehicular/loading bay access from Fox Lane. Also to the south-east of the subject site is No. 409 Princes Highway 'Inspirations paint' which is a two-storey brick render warehouse building. A small allotment is located at 407A Princes Highway to the rear of 407, this lot is



owned by Sydney Trains.

Adjoining the subject site, to the west, adjoining the rear boundary of the subject site is the Railway Corridor, which comprises numerous one-and-two brick buildings, rail sidings and signal box and buildings and are within the 'Rockdale Railway Station and Yard Group' heritage item I222 which is of state significance. Further to the south west are single and two storey buildings constructed on 1-2 Waines Crescent and over the railway corridor and used for the purposes of a meat processing operation. It is noted that although the site adjoins the railway corridor to the rear, the physical railway line is positioned a minimum of 21m from the rear boundary of the subject site. As can be seen below, the land outlined in red is owned by Sydney Trains and leased, with a small slither of land outside this lease and behind the development site providing Sydney Trains access to the Railway Corridor for maintenance and emergency purposes.

The subject site is potentially affected by contamination due to the previous industrial land uses. The subject site is affected by acid sulphate soils - Class 5.

## Statutory Considerations

---

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

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

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

The proposal includes excavation works for basement car parking that will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 27 November 2015.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant submitted a BASIX Certificate with the original application. Following amendments to the scheme a revised BASIX certificate was not submitted to Council. The proposal therefore does not satisfy the requirements of the SEPP.

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

The following clauses of the SEPP apply, given the location of the subject site on the Princes Highway which is a classified road and its position adjoining a railway corridor to the rear.

- Clause 101 - Development with frontage to classified road
- Clause 102 - Impact of road noise or vibration on non-road development

The above requires the consent authority to require vehicular access from an alternative road other than the classified road, to ensure the ongoing efficient operation of the classified road and also to ensure the development is appropriately insulated from potential road noise and vibration. The property benefits from alternative means of vehicular access via Fox Lane which directly adjoins the subject site to the south. The proposal seeks to provide vehicular access from this lane and as such satisfies the requirements of clause 101.

Further to the above, the proposal has been accompanied by an Acoustic Report, prepared by Acoustic Noise & Vibration Solutions, dated 24/07/2015 which recommends appropriate design construction measures in order to ameliorate traffic and rail noise and vibration. The proposal complies with the provisions of clause 102 and clause 87 referred to below.

- Clause 85 - Development immediately adjacent to rail corridors
- Clause 86 - Excavation in, above or adjacent to rail corridors
- Clause 87 - Impact of rail noise or vibration on non-rail development (for residential development)

The proposal seeks to undertake excavation greater than 12m on site in order to construct basement car parking levels for the proposed development. The site adjoins Sydney Trains land to the rear of the site and the proposal was referred to Sydney Trains for comment. Sydney Trains recommended Deferred Commencement Conditions to ensure any excavation and/or construction will not adversely impact upon the railway corridor or its operations, in the event that the proposal was supported.

- Clause 45 - works within the vicinity of electricity infrastructure

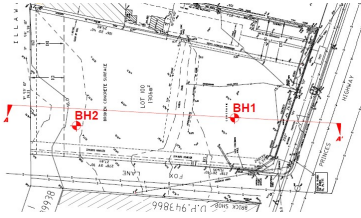
The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure, being power poles and lines at the Princes Highway frontage of the site and along Fox Lane. In accordance with clause 45(2) written notice was provided to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risk. Accordingly, the proposal was referred to Ausgrid, who raised no objections to the proposed development subject to the imposition of standard conditions of consent, in the event that the proposal was support

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

The property is not identified in Council's records as being potentially contaminated. Notwithstanding the subject site is currently used for the purposes of storing building waste from other development sites, and has been utilised previously for industrial uses. As such it is prudent to ensure the requirements of SEPP 55 are taken into consideration.

The application is accompanied by a Preliminary Geotechnical Investigation and Waste Classification Assessment report prepared by Douglas Partners and dated January 2015.

The report confirmed that two (2) borehole log profiles were taken on site to depths of 14.3m and 16.5m below ground level. Eleven (11) samples taken from the bore holes and were tested for contaminants. Laboratory analysis showed that concentrations of contaminants were all below the threshold criteria for General Solid Waste (non-putrescible) and no asbestos was detected in the samples.



The report further noted that *'the natural soils below the filling may be able to be described as virgin excavated natural material (VENM) upon excavation providing they are not cross-contaminated during site works. The preliminary waste classification is limited to the in-situ material collected from boreholes BH1 and BH2 on 18 and 19 December 2014 and does not cover other material on the site'*.

Notwithstanding the above, Clause 7(1)(b) of SEPP 55 requires the consent authority to be satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and that remediation of the land is not necessary. The aforementioned report does not stipulate that the site is suitable for residential purposes and as such it is the assessing officer's view that further investigations and a revised report are necessary to confirm the suitability of the site for the proposed development.

### **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 three occasions, 19 August 2014, 13 November 2015, with the final revised scheme submitted to Council in June 2016, reviewed by the DRP on the 4 August 2016. With respect to the final revised scheme, the Panel raised concerns in relation to the insufficient site area to enable the site to benefit from the 'bonus' height provisions of RLEP 2011. Concerns were also raised in regards to the height, bulk, scale and density of the proposal in addition to concerns relating to solar access levels, design and provision of communal open space, management of portions of the site burdened by easements, residential amenity and potential areas of concealment. These issues are 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. The proposal in its current form is unsatisfactory and does not satisfy the relevant design principles as detailed below.

#### Principle 1 – Context and Neighbourhood Character

The DRP noted that *"the site is not of sufficient size to qualify for the height bonus. The only justification that the Panel sees for any increased height along the Princes Highway frontage would be through:*

- *The widening of Fox Lane and landscaping treatment,*
- *Compliance with Council's Princes Highway Vision in the style guide*

- *The maintenance of the Council height regulation for the rear building (defined as those units currently served by the Fox Lane lift)*
- *Provision of roof communal open space to the full extent of the rear building (defined as those units currently served by the Fox Lane lift).*

The DRP stated that the points above to some degree have been addressed. However, the Panel still feels that *Units A8.4, 9.4 should be removed and the roof terrace be expanded to provide sufficient usable space for the number of proposed residents. Furthermore, this would reduce the bulk of the building, particularly adjacent to Fox Lane.* DRP stated that *"the Council's height regulation to Fox Lane is not complied with and should be complied with. Communal facilities breaching the height plane are acceptable (including lift, fire stairs, shade structures, kitchen, common rooms and toilets)."*

Comment: Fox Lane comprises a variable width of 5.825m at the western end and 6.1m at the eastern end at the junction with the Princes Highway. Plans do not seek to widen the existing lane width as suggested by the DRP. Plans illustrate a 3m building setback at ground level to Fox Lane, with an associated pedestrian pathway and landscaping proposed, all within the property boundaries of the subject site. Proposed finishes, levels and specifications of any kerb / gutter and any associated stormwater works likely to be required within Fox Lane have not been submitted for assessment. The entire length of the southern boundary of the site is burdened by Telstra easements for drainage and a right of footway which benefits Bayside Council. As such the current design conflicts with these easements.

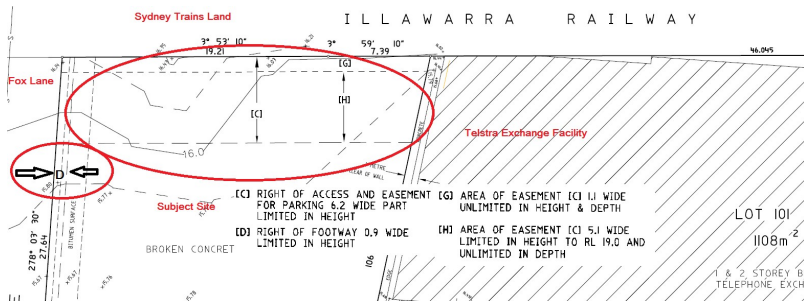
Plans further illustrate that the proposed building form beyond the Fox Lane lift core, maintains a breach to the height standard as can be identified in yellow and illustrated in the southern elevation below. This is contrary to the comments of the Design Review Panel and is not supported. Further, units 8.4 and 9.4 have not been deleted as suggested by the DRP. Revised plans illustrate the provision of the required 3m building setback from the front property boundary, with basement levels below also setback 3m from this front boundary, in order to facilitate Councils Princes Highway Green Gateway Vision and enable the planting of trees in deep soil on site.

The DRP noted that *'there is insufficient information to understand the constraints arising from the various easements on the site. Full documentation and sign off by Telstra is required.'*

Comment: The formally registered 88B Instrument and linen plan applying to the subject site details a number of easements and restrictions burdening the property, which benefit Telstra and Bayside Council.

Those of particular concern given the design of the proposed development are detailed below.

1. Easement 'C' - Right of Access and Easement for parking 6.2 wide, part limited in height. (19RL) (Authority to Benefit - Telstra)
2. Easement 'D' - Right of Footway 0.9m, limited in height (19RL) (Authority to Benefit - Bayside Council)
3. Easement 'G' - Unlimited in height and depth. (Authority to Benefit - Telstra)
4. Easement 'H' - Area of easement 'C', 5.1 wide limited in height to 19RL and unlimited in depth. (Authority to Benefit - Telstra)
5. Restriction on Use of Land - Maximum height 2 storeys (Authority to Benefit - Telstra)



The following comments are provided in respect of the above:

- 1) The proposal incorporates 4 basement levels on the subject site. These basement levels directly adjoin the rear boundary of the site and protrude into easement areas D, G and H as noted above.
- 2) Easement H requires a minimum clearance height of 19RL for future Telstra access across the site. Current plans indicate the height of level 1 of the development at 18.74RL, thus protruding into this easement.
- 3) Correspondence dated 20 October 2015 was submitted by the applicant to Council, to confirm that Telstra provides its approval for the erection of a building on the subject site greater than 2 storeys in height as stipulated by the Restriction on the Use of the Land referred to in (5) above.
- 4) Plans illustrate the provision of proposed landscaping along the existing southern boundary, this conflicts with existing easement D identified above. Further any associated awning structure (18.9RL top of awning) related to the shop at the junction of Fox Lane and the Princes Highway would protrude into the height limitation 19RL imposed by this easement.

The applicant provided Council with a copy of a confidential 'Redevelopment Agreement' between Telstra and the current owner which seeks to modify the easements and restrictions referred to above. Nil documentation has been submitted to Council to confirm that this agreement has been executed to date. Given the above, it is understood that the current linen plan and 88B outlining the subject easements requires amendment in order to enable the proposal as currently designed to proceed.

Insufficient information has been submitted to Council to date in order to confirm and resolve the above matters.

DRP was of the view that *"the current proposal seeks to benefit excessively from a concession to allow the bonus height and needs to be significantly altered as recommended in the minutes to earn the right to that concession, should the Council be of a mind to grant it"*.

Comment: Rockdale Town Centre currently comprises a mix of commercial and light industrial older building stock and is currently undergoing transition from a relatively low scale commercial / light industrial precinct to a high density mixed use residential area.

In this location, the eastern side of Princes Highway is subject to a 28m maximum height limit, whilst the western side of Princes Highway is subject to a maximum height limit of 22m. Additionally, sites on the western side of the Princes Highway in this location, with an overall site area greater than 1500sq/m are also eligible for an additional 12m height bonus as per the provisions of Clause 4.3(2A) of RLEP 2011. Recent applications / approvals in close proximity to the subject site are illustrated below.





The northern adjoining site (397 Princes Highway) has a site area of greater than 1500sq.m thus was eligible for the 12m height bonus. This neighbouring site was also the subject of a design competition as required by Clause 6.14 - Design Excellence. The maximum approved height on this site is 34.14m to the parapet and 34.43m to the top of the lift overrun.

Given the above, with respect of the subject application and notwithstanding the comments of the DRP above, it is the assessing officers view that a difference in height, bulk and scale of potential buildings fronting the Princess Highway would provide visual interest and relief from a consistent row of buildings with higher building forms and densities. A variety of building heights will facilitate solar access penetration to the public domain and outlook.

Given the numerous lots to the south of the site and individual ownership patterns, which do not make these sites eligible for the 12m height bonus, a transition and reduction in the overall height of the building form, in compliance with that permitted, would enable a more consistent streetscape response with the lower scale buildings likely to be constructed upon southern adjoining properties. This would further enable the higher building form recently approved on the northern adjoining site at 397 Princes Highway to present as a gateway building into the Rockdale Town Centre.

The consistent height of the podium along the Princes Highway is considered to be imperative, rather than the overall height of the development. This creates a human scale when viewed from the public domain. The three storey podium level as proposed steps the building down from the recently approved four storey podium of the northern neighbour. The three storey podium of the proposed development, should be wrapped around the site into Fox Lane, with tower levels above being setback from the building edge to recess the upper levels and provide a more appropriate scale and bulk when viewed from Fox Lane which is no greater than 6m in width.

Given the above, it is considered that substantial amendments are required to the height, bulk, scale and density in order to enable an appropriate streetscape response as envisaged by the provisions and objectives of DCP 2011. The proposal is inconsistent with this principle.

## Principle 2 – Built Form and Scale

The DRP recommended an *"L shape building configuration for the site"*.

Comment: The final scheme retains a U shaped form in order to maximise density and yield. As a consequence this has potential amenity impacts on site and to neighbouring properties to the south. i.e. overshadowing, overlooking and the like.

*The Panel was adamant that a setback of 3 metres for the full building height is required to provide for deep soil planting, tree planting and a pedestrian footpath up the lane to the rear access lobby. This has been successfully addressed. However, the location of the substation in the laneway footpath is not acceptable and should be incorporated into the building footprint.*

Comment: Plans illustrate the provision of a 3m setback for the full height of the building along Fox Lane. Notwithstanding, and as noted below, it is the opinion of the assessing officer that the 3 storey podium should wrap the corner and continue into Fox Lane, with levels above the third floor being setback further from the building edge to recess the tower element of the proposal and provide a more appropriate scale and bulk when viewed from Fox Lane which is no greater than 6m in width.

Plans retain the substation in the same position, this is unsatisfactory and the substation should be relocated as suggested by the DRP.

*The DRP reiterated that the subject site does not qualify for an additional 12 metres in height. The DRP stated that the part of the building facing the Highway still exceeds the height limit, the Panel feels that this could be acceptable given the reduction of building mass recommended by the Panel to comply with the height limit along Fox Lane (in conjunction with reduction of the non-conforming bulk as mentioned above) which would facilitate alignment with bulk and scale of the developments to the south on sites less than 1500sq.m and would also facilitate solar access to buildings to the south.*

Comment: The matter of the bonus height has been addressed above in Principle 1.

### Principle 3 – Density

The DRP noted that *"the recommendations provided to the applicant will reduce density to a more appropriate level."*

Comment: The revised scheme has provided a reduction in density on site as a result of increasing setbacks and reduction in building height to the rear of the site. Notwithstanding the recommendations of the DRP are not entirely satisfied and as such the density proposed, in addition to the resultant bulk and scale is inappropriate for the site. The proposal does not satisfy this principle.

### Principle 4 - Sustainability

The DRP noted that a revised BASIX report was required. It was further stated that *"for a development of this size, it is expected that a full range of sustainability features will be incorporated (water recycling, energy efficiency, WSUD, recycling materials etc)"*

Comment: A revised BASIX was not submitted with revised plans as such it cannot be confidently stated that the revised scheme complies with the BASIX SEPP. The applicant confirmed

that apartments provide "a good level of solar access", have "good natural ventilation", provide for "deep soil areas which facilitate the provision of street trees and natural water infiltration", seek to install "rainwater tanks to the common areas for irrigation and toilet use".

With respect to the above, it is noted that the level of solar access to proposed residential dwellings on site cannot be ascertained, as the shadow impact of the development approved upon 397 Princes Highway has not been accurately depicted on plans.

### Principle 5 – Landscape

The DRP was of the opinion that the open space provided at level 1 is of "*limited utility for communal use and should be confined to decorative planting to improve outlook. This planting should be carefully selected to achieve screening and outlook for apartments adjacent and above*".

Comment: Plans do not address the above and retain the L1 area as communal open space contrary to the panels recommendation.

The proposed undercroft '*outdoor seating area in the Telstra right of way on the northern side of the site is of very low amenity and is not endorsed. Further clarification is required as to how this space might be designed, managed and used. This requires further detailing, explanation as to the fitout and functionality and how appropriate amenity levels can be achieved. Detailed landscape drawings and images by a qualified Landscape Architect and an interior designer should be provided*'.

Comment: Plans and information detailing the proposed fit out and '*functionality*' of the '*outdoor seating area*' referred to by the DRP above have not been submitted to Council for assessment. The revised SEPP 65 report submitted by the applicant states that '*the quality of this space is dependent on the nature of the fitout by future user having regard to restriction of Telstra*'. It was further detailed that this space is to be provided with double height glazing to the Princes highway façade and a glass ceiling above a portion of the rear outdoor seating area, which is intended to provide some sunlight in midwinter into the space. Tiles are provided to the floor, enabling removal where required in the event Telstra requires access to cabling below.

A review of the applicants submitted revised shadow diagrams confirms that solar access is achievable in midwinter to this seating area as a result of the 'glass roof' as proposed. A review of the of the shadow diagrams for the final approved development upon 397 Princes Highway, the northern adjoining site however illustrates that this is not the case as the approved development form upon the neighbouring northern site and existing Telstra Exchange facility to the west overshadow the glass roof and rear façade of this 'outdoor seating area' in midwinter, albeit for a small portion at 12pm.

Further detail is required in order to resolve the concerns of the panel as noted above.

The DRP stated that "*Fox Lane should be improved as part of this proposal, through the provision of street tree planting, footpath and upgraded streetscape elements such as kerbs and paving. This would also improve the address to the proposed residential lobby on the lane. Streetscape improvements should also be provided to the Princes Highway frontage. It would be desirable to provide street tree planting to improve residential outlook and street amenity*". The DRP further noted with respect to the Princes Highway frontage planting that the "*primary tree species nominated are of insufficient scale to achieve avenue planting and Council's Green Gateway Vision. A larger species*



*(min. 15m high) should be incorporated".*

Comment: Plans illustrate the provision of street tree planting (8 x Blueberry Ash) and a 2m wide footpath along the Fox Lane frontage of the site. Details in relation to kerbing have not been submitted for assessment. Proposed planting in this location protrudes into the 0.9m right of footway easement benefitting Bayside Council. This would require amendment of the easement, nil discussions have undertaken with Council in relation to this matter.

The proposal includes a 3m building setback to the Princes Highway with basement levels below also setback 3m in order to accommodate deep soil and facilitate tree planting. Plans illustrate the provision of planters with shrubs and 4 x Crab Apple trees planted along this frontage, with the awning above reduced in depth i.e. protruding 1.5m from the building edge, in order to enable trees to grow above the awning level. It is noted that the Crab Apple has a maximum mature height of 6m and thus this tree species is of insufficient scale to achieve avenue planting and Council's Green Gateway Vision as noted by the DRP.

*The "substation should be relocated. Furthermore, details should be provided on overhead power lines (undergrounded)."*

Comment: The substation has not been relocated as noted by the DRP. Nil detail has been provided in relation to the undergrounding of overhead power lines. Notwithstanding should the proposal have been supported this is a matter which could have otherwise been conditioned.

The DRP noted that the number of parking spaces provided on site is *"over provided" and that "deep soil should be provided along the Fox Lane setback zone to facilitate street tree growth to supplement the proposed 3m deep soil setback along the Princes Highway"*.

Comment: Plans illustrate a reduction in the basement footprint of the development and reduction in car parking numbers from 95 to 75 on site. The 3m building and basement setbacks to both Fox Lane and the Princes Highway enable the provision of deep soil areas which would facilitate tree growth. Planters with shrubs and trees are proposed along these two frontages as discussed above.

The DRP noted that the *"proposed communal open space on the rooftop level 8 needs much more considered design to provide a series of spaces defined by planting and providing a diverse range of areas for residents to use. There is an over reliance on arbours and excessive paving. This should be redesigned to include more tree/ground level planting where possible. Rainwater tanks should be integrated into the building and not attached to the wall of the communal open space"*.

Comment: The above issues raised by the DRP remain and have not been resolved.

It is evident that further resolution of the above issues and an increase in genuine deep soil areas on site would assist in achieving the satisfaction of this principle. It cannot be stated that the proposal in its current form is satisfactory in regards to Principle 5 - Landscape.

#### Principle 6 – Amenity

The panel raised concerns in relation to *'privacy conflicts'* between the proposed communal area at level 1 and adjoining units. Whilst the floor plan has been reconfigured in the revised scheme and reduced the number of units directly adjoining the communal open space, this issue remains as three

units, A1.3, A1.5 and A1.6 adjoin this area.

The DRP raised concerns in relation to:

a) *'poor quality of communal space'*

Comment: The level 1 communal open space area proposed comprises a total area of 72sq/m. Of this, 30sq/m comprises a raised mass planter with the remaining area being irregularly shaped and no greater than 1.7m in overall width. The location, design and configuration of this COS area is not appropriately designed so as to be functional, encourage social interaction and maximise amenity for future occupants.

As noted by the DRP in Principle 5 - Landscape above, the level 8 COS area requires further design improvement in order to reduce excessive paving and create a delineated, attractive and inviting space which is designed to enable a range of activities and encourage social interaction of future occupants.

b) *"remote and spatially constructed entrance lobby off Fox Lane"*

Comment: The residential entry lobby off Fox Lane is recessed 1.4m - 1.7m from the newly proposed splayed southern boundary to Fox Lane. This creates concealment opportunities and raises potential concern for the safety and security of future users of this building. This requires resolution.

c) *"unsafe access to lifts in basement"*

Comment: Accessible car spaces within basement levels 1 and 2 are not all located within close proximity to proposed lift cores and require kerb cross overs in order to access lifts. This requires further resolution in order to maximise the safety of persons with a disability / mobility impairment whom will utilise these spaces.

d) *"Solar access to the east and west facing units should be illustrated to show a compliant minimum of 2 hours of direct sunlight to the living areas"*

Comment: *'solar access'* plans submitted to Council seek to illustrate the number of units within the development which receive a minimum of 2 hours of access in midwinter. These diagrams do not accurately depict the approved building form upon the northern adjoining site. As such an accurate assessment of the number of units within the development receiving adequate solar access in midwinter is unable to be ascertained.

A review of the shadow diagrams associated with the approved built form upon 397 Princes Highway illustrates substantial overshadowing, which requires due consideration by the applicant in designing a compliant development upon their site.

e) *"In-unit storage is generally provided but some units do not appear to have the required 50% of storage volume. Design amendments should be made to comply and a table of storage provision for each unit should be submitted demonstrating such compliance with the ADG"*

Comment: Plans illustrate the provision of storage cupboards within residential dwellings, yet the volume of this storage has not been quantified by the applicant as sought by the DRP. It is noted that supplementary storage is provided within the basement levels.

f) *"While 6 adaptable units are provided, they are all served by a single lift which means that disabled occupants could be stranded or excluded when the lift is out of action. It is recommended that disabled units be located at levels where an interconnecting corridor between the two lifts can be provided"*.

Comment: Plans do not address this issue.

g) *"Excessively narrow inaccessible balconies are unacceptable"*

Comment: Plans illustrate L shaped balconies to 7 x 2 bedroom units which comprise sections of balcony being 0.4m in width. The design criteria of the Apartment Design Guide nominates that the minimum balcony width to be counted as contributing to the balcony area is 1m. Given the aforementioned, these units comprise insufficient private open space areas. i.e. A 1.5 / A 2.8 / A 3.7 / A 4.7 / A 5.7 / A 6.7 / A 7.7 require balcony spaces of 10sq/m and are provided with 7sq/m useable balconies. This is not acceptable.

As demonstrated above, the proposal in its current form raises amenity concerns which require further resolution in order to ensure this Principle is satisfied.

#### Principle 7 - Safety

The DRP raised the following concerns:

a) *'The very narrow lane requires pedestrians to step into the roadway and this is unacceptable.'*

Comment: Plans illustrate the provision of a delineated pedestrian pathway within the site boundaries along Fox Lane.

b) *'Areas of concealment along the driveway are still an issue'.*

Comment: A roller door has been introduced to the loading / unloading area adjoining the driveway on site. This issue has been resolved.

c) *"The deeply recessed entrance from Princes Highway to the lobby is a place of concealment. The entrance door should be moved forward which would create an opportunity to improve the internal quality of this otherwise uninviting space. Similarly, the doors to the Fox Lane residential entrance should be moved out as far as possible to minimize a place of concealment"*.

Comment: The above issues have not been addressed.

The proposal requires further design amendment in order to ensure the safety and security of future users is maximised and to ensure that this Principle is satisfied.

#### Principle 8 - Housing Diversity and Social Interaction

The DRP noted that the unit mix has been *'substantially improved'*.

Comment: Original plans did not incorporate any 3 bedroom units. The revised scheme comprises 4 x

3 bed, 17 x 1 bed and 36 x 2 bed dwellings. The proposed unit mix provides a range of housing to cater for diverse household types and different income groups and the revised unit mix is deemed satisfactory.

Principle 9 – Aesthetics

The Panel recommends that the *'applied framed elements with curved corners be deleted and the façade treatments be made more simple and cohesive. It is also recommended that the top two floors corresponding to the maisonette units be distinguished from the rest of the building with subtle differentiation in materials and elevational details'*.

Comment: The above issue remains unresolved.

The DRP noted that the *"application should include details of the Telstra equipment that is intended to be installed on this building and measures taken to minimise any adverse aesthetic impacts"*.

Comment: Details of the potential Telstra communication structures to be installed upon the development have not been submitted for assessment.

Given the above, an accurate holistic assessment of the aesthetics of the proposed development is unable to be undertaken.

*c. Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG) as shown below.

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3D - Communal Open Space	25% (326.5sq/m) site area 50% direct sunlight to principal useable part of COS for 2hrs in midwinter	72sq/m (L1) + 240sq/m (L8) + 25sq/m (L8 communal room) = 337sq/m	Yes (see discussion below)
3E - Deep Soil Zones	7% (91.4sq/m) deep soil zone with minimum dimensions of 3m	35.2sq/m planting in the form of periphery planters at the Fox Lane and Princes Highway frontage	<b>No</b> - 56.2sq/m deficiency. Setback areas to Princes Highway / Fox Lane are primarily hard paved.
3J - Bicycle and car parking	Minimum Rate ( <i>Guide to Traffic Generating Developments</i> ) = 71 (50 residential / 12 visitor / 9 commercial)  Maximum Rate ( <i>DCP 2011</i> ) = 79 (61 residential / 12 visitor / 9 commercial)	75 car spaces in total	Yes

4D – Apartment size and layout	Apartment type		Min area	1 bed - 50sq/m - 63sq/m 2 bed - 70sq/m - 88sq/m 3 bed - 111sq/m - 146sq/m	Yes Yes Yes
	1 bedroom		50M <sup>2</sup>		
	2 bedroom		70m <sup>2</sup>		
	3 bedroom		90m <sup>2</sup>		
4C – Ceiling heights	Minimum ceiling heights:			2.7m habitable 2.4m non habitable 3.3m ground floor 2.7m first floor	Yes Yes Yes <b>No</b>
	Habitable		2.7m		
	Non-habitable		2.4m		
	Mixed use area		3.3m for ground and first floor		
3F Visual Privacy	Building height	Habitable rooms and balconies	Non habitable rooms	See discussion below.	See discussion Below.
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 storeys)	9m	4.5m		
	Over 25m (9+storeys)	12m	6m		
4A – Solar and daylight access	Living rooms + POS of at least 70% (40 of 57) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter  Max 15% (9 of 57) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			Shadow diagrams submitted do not accurately depict the approved building form on the northern adjoining site, the resultant shadow cast and impact upon the proposed development.	<b>No</b> - insufficient information provided.
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.  10 storeys and over, max apartments sharing a single lift is 40.			Max 4 units per core  <40 at level 10	Yes  Yes
4E – Private open space and balconies	Dwelling type	Minimum area	Minimum depth	1 bed - min 8sq/m provided  2 bed – A 1.5 / A 2.8 / A 3.7 / A 4.7 / A 5.7 / A 6.7 / A 7.7 comprise 7sq/m balconies  3 bed - min 12sq/m provided	Yes  Partial - 7 of 36 2 bed units have insufficient POS area.  Yes
	1 bed	8m <sup>2</sup>	2m		
	2 bed	10m <sup>2</sup>	2m		
	3+ bed	12m <sup>2</sup>	2.4m		

4B – Natural ventilation	Min 60% (35 of 57) of apartments are naturally cross ventilated in the first nine storeys of the building.		44 of 57 units are cross ventilated (77%)	Yes
	Ten storeys or > are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.			
4G – Storage	Dwelling type	Storage size volume	Appropriate inter - unit storage provision with supplementary within basement levels	Yes
	1 bed	6M <sup>2</sup>		
	2 bed	8m <sup>2</sup>		

## Discussion

### *3D - Communal Open Space*

Whilst the provision of communal open space within the proposed development technically complies with the 25% design criteria, as discussed above in Principle 6 - Amenity, the proposed level 1 communal open space area is not appropriately designed and is deemed to be inconsistent with the design guidance provided within Part 3D of the Apartment Design Guide. The level 1 communal open space area is not easily identifiable, does not incorporate any facilities i.e. seating and is not functional given the proposed useable area. This space has the potential to result in adverse over looking and acoustic impacts to units A1.6, A1.3 and A1.5 given its location adjoining bedroom windows and private open space areas.

Where 1.8m high fencing is provided to the periphery of the private open space areas of units A1.3 /A1.6, this is likely to result in a sense of enclosure and combined with the lack of facilities or seating, is not conducive to a well designed communal open space area on site.

### *3F - Visual Privacy*

The tables below illustrate the building separation distance proposed on site and to the northern neighbouring development as approved. Whilst building separation distances as proposed do not adhere to the requirements of the ADG, visual privacy between the proposed development and that approved upon 397 Princes Highway is considered to be satisfactory.

<b>Building Separation</b>	<b>On Site</b>	<b>Compliance</b>
Up to L4 12m required	Up to L4 = 14.4m	Yes

L5 – L8 18m required	L4 to L7 = 14.4m	<b>No</b> – 3.6m deficient. Angled privacy louvres provided to bedroom windows. Privacy satisfactory
L8 + 24m required	L8 + = >24m as no building component above L7 on site	Yes

<b>Building Separation</b>	<b>With 397 Princes Highway</b> <i>(9m side setback approved for building form upon 397 Princes Highway above Level 5, to side boundary with subject site)</i>	<b>Compliance</b>
Up to L4 12m required	Lower 3 levels fronting Princes Highway built to Boundary.	<b>No</b> – Build to side boundary proposed. This is satisfactory given 4 storey podium upon 397 adjoining as approved. Nil privacy impacts likely.
L5 – L8 18m required	L4 – L8 = 4.53m to common side boundary.  (13.53m proposed building to approved building upon 397 Princes Highway)	<b>No</b> – 4.47m deficiency. Satisfactory given provision of obscured and highlight windows to ensuite, kitchen and living areas of units.
L8 + 24m required	L9 – L10 = 4.53m to common side boundary. (13.53m proposed building to approved building upon 397 Princes Highway)	<b>No</b> – 10.47m deficiency. Satisfactory given provision of obscured and highlight windows to stairwell, kitchen and living areas of units.

## Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
1.9A Suspension of covenants, agreements and instruments	Yes	Yes - see discussion
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	No - see discussion	No - see discussion
4.3 Height of buildings - Rockdale Town Centre	No - see discussion	No - see discussion
4.6 Exceptions to development standards	No - see discussion	No - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Between 25 and 30 ANEF (2033) contours	Yes	Yes - see discussion

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	No - see discussion	No - see discussion
6.7 Stormwater	No - see discussion	No - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 1.9A Suspension of covenants, agreements and instruments

The formally registered 88B Instrument and linen plan applying to the subject site details a number of easements and restrictions burdening the property, which benefit Telstra and Bayside Council. These easements have been discussed in detail within the SEPP 65 (Principle 1) section of this report.

Whilst the provisions of this clause would normally suspend a covenant, easement or instrument, the provisions of this clause do not specifically apply to a covenant imposed by the Council nor suspend the rights or interests of any public authority. It is noted that Telstra is deemed to be a 'Public Authority' as per Clause 277 of the Environmental Planning and Assessment Regulation 2000. As such the provisions of this clause do not specifically apply.

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as commercial and residential flat building which constitute permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

#### 4.3 Height of buildings

As per the provisions of this clause, a maximum height limit of 22m applies to the subject site. The proposal seeks to construct a development on site, with a height of 25.15m - 34.17m in height as follows.

- a. Rooftop of 8 storey building component = 25.15m
- b. Top of Arbour structure at level 8 communal open space area = 27.24m
- c. Top of lobby to level 8 communal open space area = 27.78m
- d. Top of lift / stair overrun to level 8 communal open space area = 28.98m
- e. Rooftop of 11 storey building component = 33.97m
- f. Parapet of 11 storey building component = 34.17m

The proposed development breaches the height limit on site by 3.15m - 12.17m inclusive of lift / stair overruns and represents a 14.3% to 55.3% proposed variation to the maximum permissible height limit for the site.

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

#### 4.3 Height of buildings - Rockdale Town Centre

The provisions of this clause allow a potential 'bonus height' of 12m for certain sites within the Rockdale



Town Centre, subject to the lot having an area of at least 1,500 square metres. The lot subject of this application, comprises a total site area of 1306sq/m, being 194sq/m deficient of the lot area required to be eligible for the aforementioned height bonus. Accordingly the lot is not eligible for additional height provided by the bonus.

Notwithstanding the above, the applicant seeks to pursue the 'bonus height', submitting a clause 4.6 variation to support their arguments for the additional height (3.15m - 12.17m) proposed. The Clause 4.6 submitted by the applicant has been considered and is not supported for the reasons outlined below.

It is reiterated that sites eligible for the 'bonus height' are required to partake in a 'design competition' process, in accordance with the provisions of Clause 6.14 of RLEP 2011.

The proposal is inconsistent with the requirements and objectives 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 variations to the height standard has been assessed below.

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

#### Variation Sought - Height

As noted within Clause 4.3 - Height of Buildings, the proposal seeks to vary the maximum 22m height standard applicable to the subject site, proposing a height of 25.15m - 34.17m as illustrated in the image below.



*Proposed Height Variation*

The proposed development breaches the height limit on site by 3.15m - 12.17m inclusive of lift / stair overruns and represents a 14.3% to 55.3% proposed variation to the maximum permissible height limit for the site.

*Applicants Height Justification*

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

- a) Strict compliance with the height of buildings principal development standard under Rockdale Local Environmental Plan 2011 is unreasonable or unnecessary in the circumstances of the case, where the proposed building height could otherwise have been achieved in a development scheme that involved amalgamation of the adjoining site to the north, such that the additional 12m height incentive available under subclause 4.3(2A)(a) of the LEP would have realised an allowable building height of 34m across both sites.*
- b) The proposed design solution is considered to represent an appropriate development outcome for the site, displaying design excellence, whilst ensuring that a high standard of amenity for future residents will be achieved. There are sufficient environmental planning grounds to justify the contravention to the development standard as the building has been designed to a high quality and the amenity for future residents will be to a high standard;*
- c) The non-compliance does not directly result in any adverse environmental impacts in terms of the building being out of context with the anticipated bulk and scale of development in the locality;*
- d) The proposal will provide a high quality shop top housing development that is in keeping with the desired future character of the area;*
- e) Tthe scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.*
- f) The overall style, scale and built form of the building will be commensurate with the likely future ‘built environment’ and desired character of the area;*

*g) The non-compliant height will have negligible impact on the streetscape appearance and character of the locality having regard to the similar height of the proposed development on the adjoining site to the north, for which a development application is soon to be lodged;*

*h) The proposal is generally consistent with the aims and objectives of Rockdale Local Environmental Plan 2011; and*

*i) The proposal is generally consistent with the objects of the Environmental Planning & Assessment Act 1979, in particular, the orderly and economic use and development of land and ecologically sustainable development.*

### Height Discussion

The applicants written request is satisfactory in regard to addressing clause 4.6(3).

Following a review of the application, it is however considered that the height variation as proposed is inappropriate for the following reasons:

A. The subject site is not the only property within the street block bound by the Railway line, Fox Lane, Princes Highway and an unnamed lane to the north. The site and its northern neighbour 397 Princes Highway are adjoined by a Telstra Exchange facility to the north west. This property is known as 397A Princes Highway and is currently occupied by a two storey brick telephone exchange building.

Although this site houses electricity infrastructure, burdens the subject site and its northern neighbour with relevant easements at the present time, the potential to redevelop this site should not be ignored purely given its existing use. This adjoining property is of sufficient dimensions and area (1108sq/m) in which to accommodate redevelopment in its own right.

Given the above, the subject site is not the only property within the aforementioned street block ('urban island') which is less than 1500sq/m in overall site area. In the event that 397A Princes Highway is sought to be redeveloped, this site would also be required to adhere to the applicable 22m height limit that applies. Accordingly, the subject site does not warrant special consideration.

B) The streetscape analysis and massing diagram submitted by the applicant is misleading and inaccurate. Properties depicted as redevelopment sites within the analysis at 407-411 Princes Highway and 413-425 Princes Highway do not comprise sufficient overall site area i.e. 1500sq/m in order to benefit from the height bonus provisions. These properties and the subject site are not eligible for the bonus additional height as they have insufficient overall site area. As such the potential height of these southern properties will be restricted to 22m.



*Applicants massing diagram*



*Applicants streetscape analysis*

Additionally the streetscape analysis and massing diagram depict that the bonus height is also applicable to 381-391 Princes Highway. This is the building mass furthest to the right in the above figures. It is noted that this particular site is outside the confines of the Rockdale Town Centre and as such the bonus height provisions do not apply to this property. Current planning controls for 381-391 Princes Highway restrict height on this property to 14.5m.

Given the subject site and southern adjoining properties within the Rockdale Town Centre are not as yet developed to their full potential and of which are less than 1500sq/m where the additional height bonus does not apply, they are also restricted to a 22m height limit. The subject site is therefore not considered to warrant special consideration.

C) The proposed 3.15m - 12.17m of additional building height represents a 14.3% to 55.3% variation in excess of the maximum height permitted upon the subject site. Supporting the proposed additional height upon this site has the potential to set a significant undesirable precedent. The bonus height provisions within RLEP 2011 were introduced to encourage developers and / or property owners to amalgamate adjoining sites and create sites with an overall area which would be capable of not only facilitating a development of greater height, but providing a development which complies in full with the relevant applicable planning requirements and ensuring the provisions of clause 6.14 which require a design competition to be undertaken, are followed. The proposal has the potential to inadvertently discourage the amalgamation of sites for future redevelopment purposes.

D) The applicants written request to vary the Height standard has not adequately provided appropriate justification as to why the current height standard is unreasonable or unnecessary in the circumstances of the development or subject site.

E) The applicant has not provided sufficient environmental planning grounds particular to this development and site, which demonstrate that the Height development standard is unreasonable or unnecessary. The applicants written request is inconsistent with the objectives of Clause 4.6 - Exceptions to Development Standards.

F) Should the applicant be permitted to accommodate the additional 12m bonus height on the subject site, the applicant would obtain the benefit of the bonus provisions without delivering design excellence as intended and / or required by the provisions of Rockdale LEP 2011. This would set a significant undesirable precedent and potential abandonment of the design excellence clause recently introduced into RLEP 2011.

G) The proposal does not regard or respect the principles established in the Council endorsed Rockdale Town Centre MasterPlan. That being, to encourage site amalgamation. The subject site and its neighbour at 397 Princes Highway are not being amalgamated, or developed as a single entity. By allowing the additional height, there is no incentive for any site amalgamation.

H) The site is located within what is known as the 'Arterial Edge' street character as per the provisions

of Part 7.5 of DCP 2011. Accordingly, the street edge is to be defined by modulated built forms transitioning from the strong urban character in the town centre core further to the south, to provide a more spacious and open character, which allows vistas between buildings to the skyline beyond. The additional height as proposed does not provide these opportunities.

I) Given building envelope controls apply to the site in lieu of FSR provisions, the height standard is the principal control which sets the overall bulk and scale for development upon this site. The proposal is inconsistent with the objectives and requirements of Clause 4.3 - Height of Buildings and is of insufficient overall site area to be eligible for the bonus height permitted by the provisions of this clause.

J) The proposal is not in the public interest given the above.

It is reiterated that given the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, the applicant has been unable to establish the site and development specific circumstances which could otherwise warrant the proposed additional height on the subject site.

It is important to note that prior to the establishment of the judgement for the aforementioned court case, variations to development standards could have been supported on the basis of compliance with objectives and nil environmental planning impacts. Given the establishment of this judgement the requirement for justifying a variation to a development standard such as Height is challenging and must be correlated to the particular circumstances of the site or development. This has been unable to be demonstrated in this instance by the applicant.

Given the above, it is not considered that the proposed height variation should be supported and that the height standard for the site and development is reasonable and necessary in this instance. It is reiterated that there are insufficient environmental planning grounds particular to the site and development presented by the applicant of which to justify the contravention of the height standard for the site.

#### 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 in excess of 12m within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. The proposal meets the objectives of this clause.

#### 6.3 Between 25 and 30 ANEF (2033) contours

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located between the 25 and 30 ANEF (2033) contours and as such is affected by aircraft noise. The proposed development will result in an increase in the number of dwellings and people affected by aircraft and in accordance with this clause, the proposed development requires noise mitigation measures.

The proposal was accompanied by an Acoustic Report prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 24/07/2015. The submitted report considered the matter of aircraft noise and provided recommendations in order to ensure acoustic amelioration measures are incorporated into the proposed development. The proposed development complies with the requirements and objectives

of this clause.

#### 6.4 Airspace operations

The proposed development is affected by the 50-51AHD Obstacle Limitation Surface (OLS). The proposed development has a height of 49.19RL and thus was referred to Sydney Airports for comment. Sydney Airport responded to Council on 30/10/2015 confirming nil objection to the erection of structures to a maximum height of 49.2m AHD. The proposal satisfies the requirements of this clause.

#### 6.6 Flood Planning Land

The site is affected by flooding and the floor level of the development is required to be raised, with car parking areas also protected appropriately. Whilst the ground floor level of the building has been designed in accordance with the requirements contained in Council's Flood Advice Letter, it is not clear as to whether the basement carpark access ramp crest level is 500mm above the 1 in 100-year flow level. Given the aforementioned it cannot be stated that the proposal satisfies the objectives and requirements of this clause.

#### 6.7 Stormwater

The proposed development will be able to drain by gravity to a detention system, with over flow directed to proposed new kerb outlets in the Princes Highway, this is subject to RMS approval. The applicant has submitted stormwater concept plans and a stormwater management plan prepared by Australian Consulting Engineers. The system proposed fails to demonstrate the use of a Water Sensitive Urban Design Approach (WSUD) and is thus inconsistent with the objectives and provisions of this clause.

#### 6.12 Essential services

Services will generally be available on the site.

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

#### *Draft ISEPP*

The NSW Department of Planning has released for public comment its amendments to the State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP). The amendments to the Infrastructure SEPP propose to simplify the delivery and maintenance of social infrastructure including health facilities, correctional centres, emergency and police services, and council services. They will simplify the approval process while still ensuring appropriate levels of environmental assessment and consultation are undertaken for these activities. The proposal remains consistent with the provisions of this draft.

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

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes
4.1.3 Water Management	No - see discussion	No - see discussion

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.3 Flood Risk Management	No - see discussion	No - see discussion
4.1.4 Soil Management	Yes	Yes
4.2 Streetscape and Site Context - General	No - see discussion	No - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes
4.4.7 Wind Impact	No - see discussion	No - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	No - see discussion	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shops	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Design of Loading Facilities	No - see discussion	No - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	No - see discussion	No - see discussion
4.7 Waste Storage and Recycling Facilities	No - see discussion	No - see discussion
4.7 Service Lines/Cables	No - see discussion	No - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	No - see discussion
5.3 Mixed Use - Access to Premises	Yes	Yes - see discussion
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
7.5.1 Street Role - Centre Edge Residential	Yes	Yes - see discussion
7.5.1 Residential Apartment Design	Yes	Yes
7.5.1 Parking and Loading	Yes	Yes
7.5.1 Commercial Space	No - see discussion	No - see discussion
7.5.2 Setbacks	Yes	Yes - see discussion
7.5.2 Street Character	No - see discussion	No - see discussion
7.5.2 Arterial Edge	Yes	Yes - see discussion
7.5.2 Laneway	No - see discussion	No - see discussion

#### 4.1.3 Water Management

Matters in relation to stormwater have been previously discussed in this report.

#### 4.1.3 Flood Risk Management

The matter of flooding was previously addressed in this report.

#### 4.2 Streetscape and Site Context - General

The matter of streetscape and site context has been addressed as part of the SEPP 65 assessment of this report.

#### 4.4.4 Glazing - General Controls

The proposed development provides appropriate sun shading devices during summer for glazed areas facing west and east, including the use of awnings and external screen louvers. The proposal is satisfactory in regards to this clause.

#### 4.4.5 Acoustic privacy

As previously discussed within this report, an Acoustic report prepared by a suitably qualified acoustic consultant was submitted with the application which provided recommendations on appropriate measures to be incorporated into the design of the building in relation to potential acoustic impacts from road, rail, aircraft and mechanical plant noise. The development will also be appropriately acoustically attenuated to ensure acoustic amenity is maximized between inter tenancy units. The proposal satisfies the requirements and objectives of this clause.

#### 4.4.7 Wind Impact

A wind report prepared by ANA Civil Pty Ltd dated 20 July 2015 was submitted to Council with the original version of the scheme. Plans were subsequently amended and resubmitted to Council on 6 June 2016. No revised wind report was submitted.

In the absence of a revised Wind Report, it cannot be stated that the proposal satisfies the provisions of this clause.

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

The development is required to comply with the following unit mix:

Unit	DCP Requirement	Proposed	Complies
1 bed	10% - 30% (6-18)	17 x 1 bed	Yes
2 bed	50% - 75% (29-43)	36 x 2 bed	Yes
3+ bed	10% - 20% (6-12)	4 x 3 bed	No

Notwithstanding the above, the proposal provides for a range of housing within the development to cater to diverse household types. The proposal provides for a range of housing options which will enable changing lifestyle needs and cater to different income groups. The proposal is considered to be consistent with the objectives of this clause. A variation in this instance is deemed satisfactory.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 6 adaptable units are required to be provided



within the development. A total of 7 adaptable units are proposed, being units A1.1/A2.3/A3.3/A4.3/A5.3/A6.3/A7.3. The proposal complies with the requirements of this clause.

#### 4.6 Parking Rates - Shops

Plans illustrate the provision of 341sq/m of commercial floor space at ground level in the form of two shops. As per the provisions of this clause and factoring in the applicable Travel Demand Management Concession which permits a 20% reduction of the 'non-residential' component of the parking requirement within the Rockdale Town Centre, the following is required for the development.

- a) 7 commercial car spaces
- b) 2 bicycle and 1 motorbike spaces

Plans illustrate the provision of 7 commercial car spaces, in addition to a total of 5 motorbike and 15 bicycle spaces and the proposal complies with the provisions of this clause.

*Note - Residential car parking requirements are addressed within the Apartment Design Guide section of this report.*

#### 4.6 Access to Parking

Vehicular access to the site is provided via Fox Lane in the form of a proposed 6.193m wide access way along the rear boundary of the subject site. 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 illustrate a dedicated loading / unloading bay on site adjoining the ground level commercial / residential garbage rooms for garbage collection and furniture removal. Whilst this area is illustrated on plans, insufficient clearance i.e. 3.65m is provided to facilitate the use of this area for a Council garbage truck. A 4.5m minimum height clearance is required by Council. The proposal is unsatisfactory in this regard.

#### 4.6 Car Wash Facilities

Basement level 2 incorporates a dedicated car wash bay on site for use by future occupants. It is of appropriate dimensions and satisfactory in this regard.

#### 4.7 Air Conditioning and Communication Structures

Plans do not illustrate the provision of proposed air conditioning or communication structures on site. An accurate assessment cannot thus be undertaken.

#### 4.7 Waste Storage and Recycling Facilities

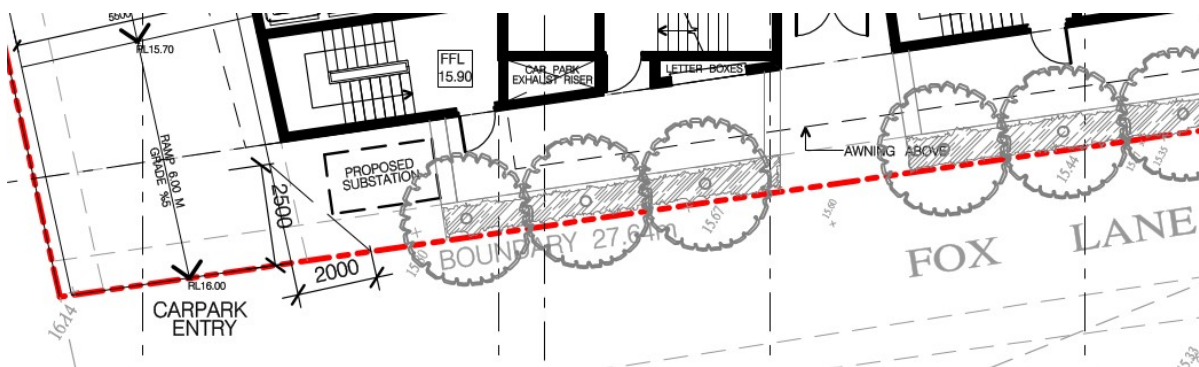
Plans indicate the provision of waste chutes within the development, adjoining each lift core within the building. Waste is to be discharged into 1100 litre bins within the waste storage rooms at ground level within the development. A separate waste storage room is provided for the commercial component of the development.

Waste storage rooms are of sufficient dimensions and area to accommodate the proposed development. The proposal provides for appropriate on site waste management and

satisfies the provisions of this clause.

#### 4.7 Service Lines/Cables

Revised plans illustrate the provision of a proposed substation within the physical boundaries of the site adjoining Fox Lane and the proposed southern fire stair.



The location of the proposed substation is deemed to be inappropriate given it is positioned within a proposed pedestrian walkway, fully visible with no apparent screening and would obscure pedestrian access beyond this point. The substation should be integrated into the built form on site. The proposal is unsatisfactory with regards to the provisions of this clause.

#### 4.7 Laundry Facilities and Drying Areas

Residential units are provided with appropriate internal laundry facilities. The proposal satisfies the provisions of this clause.

#### 4.7 Letterboxes

Plans indicate the provision of residential mail boxes adjoining the main entry foyers to the upper residential levels. The proposal complies with the requirements of this clause.

#### 4.7 Hot Water Systems

No details are provided on plans regarding the location of hot water units to residential dwellings. The proposal will be conditioned to ensure that all hot water systems/units located on the balcony of a dwelling 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.

#### 5.2 RFB - Building Entry

Two residential building entries are provided at ground level from both the Princes Highway and Fox Lane. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street, pedestrian connection and the development. The proposal satisfies the requirements and objectives of this clause.

#### 5.2 RFB - Lift Size and Access

The provisions of this clause require the provision of lifts within all residential flat buildings. Lift cars are to have minimal internal dimensions of 2.1m x 1.5m, be accessible from all levels of the building and each dwelling on a level above the sixth storey is to have access to two lifts.

Additionally all common corridors are required to have a minimum width of 2 metres to enable bulky goods (white goods, furniture etc) to be easily transported through the building.

Plans indicate the provision of appropriately sized and located lift cores within the proposed

development. Lifts are accessible from basement level to all levels within the development. Cross over between lifts is provided at level 8 via the rooftop communal open space area, enabling future occupants access to two within the building.

Further to the above it is noted that communal corridors within the development are 1.77m - 3.4m, thus a minor component of the corridors are 0.23m deficient with the required corridor width as per DCP 2011. Notwithstanding, it is considered that the corridor widths as proposed are satisfactory as they would enable the movement of bulky goods within the development.

The proposed development is satisfactory with regards to the objectives of this clause.

### 5.3 Mixed Use - Retail

The proposal is required to provide 10% (500sq/m) of the gross floor area of the development as commercial space. Plans indicate the provision of a total of 341sq/m of commercial space on site, this is equivalent to 6.8% and as such does not comply with this requirement.

Notwithstanding the proposal is deemed to be acceptable given the provision of commercial space fronting the Princes Highway and wrapping the corner to Fox Lane, which activates the northern edge of the town centre and public domain, providing for a commercial focus at ground level. The proposal is satisfactory in this regard and satisfies the objectives of this requirement.

### 5.3 Mixed Use - Access to Premises

Access for persons with a disability / mobility impairment has been provided on site from basement to rooftop levels, including ground floor commercial areas. The proposal satisfies the requirements of this clause.

### 5.3 Mixed Use - Awnings

An awning is proposed to the full length of the Princes Highway frontage. The awning has a soffit height of 3.4m and a maximum fascia height of 100mm. The kerb setback is in excess of 600mm. The awning will provide appropriate weather protection and the proposal is satisfactory with regards to the provisions of this clause.

### 7.5.1 Street Role - Centre Edge Residential

Developments are to comply with the standards for ground floor building uses and access locations set out by this part, with respect to their intended core function. The site is subject to two street frontages and subsequent core functions as follows:

#### *Princes Highway - Contributory Retail*

The proposal incorporates commercial shopfront premises along the frontage of the site to the Princes Highway in addition to a residential entry. The southernmost commercial tenancy wraps the corner to Fox Lane and continues for a length of approximately 12.5m into the site, partially addressing the Fox Lane frontage.

The proposal is consistent with the DCP requirements for the provision of a contributory retail street frontage.

#### *Fox Lane - Service Laneway*

As referred to above, the southern most commercial tenancy wraps the corner to Fox Lane and continues for a length of approximately 12.5m into the site, partially addressing the Fox Lane frontage. A second residential entry lobby is proposed off Fox Lane, with vehicular and service access proposed via the lane as required by the provisions of this clause.

Given the above the proposal satisfies the requirements of this clause.

#### 7.5.1 Commercial Space

The proposal does not incorporate the provision of commercial space at first floor level, nor is a higher floor to ceiling i.e. 3.3m at first floor level provided in order to facilitate future commercial conversion. The proposal is unsatisfactory in regards to the requirements of this clause.

#### 7.5.2 Setbacks

The subject site is located within the 'Green Gateway' and as such a 3m setback is required to the Princes Highway frontage of the site. Revised plans incorporate this required setback to ground and upper levels and the proposal thus complies with this requirement.

#### 7.5.2 Street Character

The proposal seeks to vary the relevant street character diagrams applicable to the subject site. These have been discussed in detail below.

#### 7.5.2 Arterial Edge

The proposed development is required to provide a 3 storey podium setback 3m from the Princes Highway frontage of the site, in order to accommodate the envisaged 'Green Gateway' corridor.

Additionally, levels 4 and above are to be recessed an additional 3m from the podium below, with a side setback of 4.5m at level 4 and above with a minimum building separation distance of 9m to neighbouring buildings.

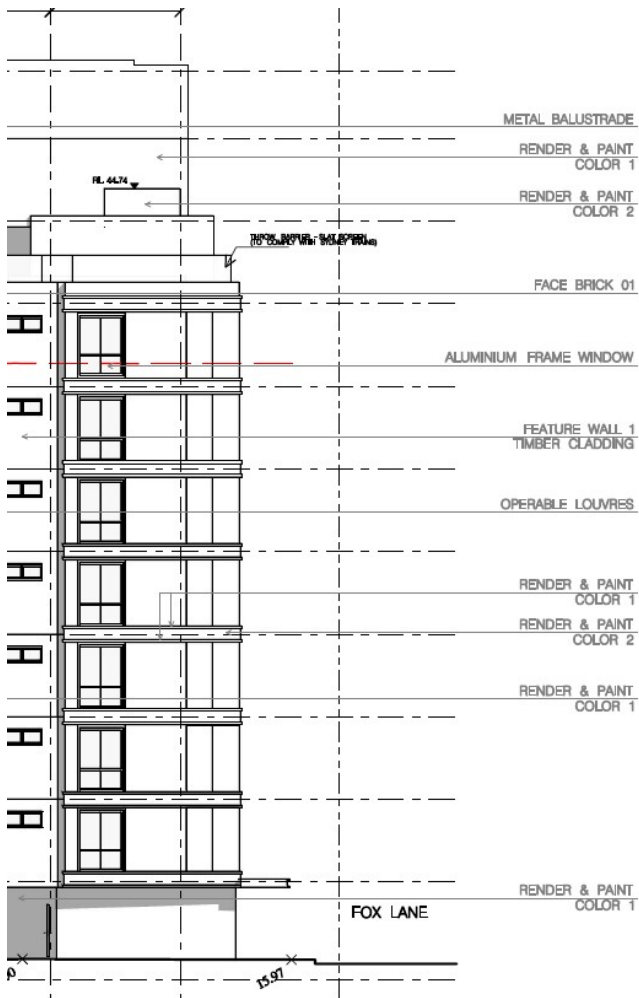
The proposal provides a 3 storey podium, recessed 3m from the front property boundary, with levels 4 and above recessed a further 3m as required by this clause.

Level 4 and above is setback 4.5m from the northern common side boundary of the site as required by the provisions of this clause.

#### 7.5.2 Laneway

Along the 'Laneway' frontage of the site, the proposal is required to provide a 3 storey podium built to the property boundary, with levels 4 and above recessed an additional 3m from the podium below.

The ground level of the development and all subsequent levels above are positioned 3m from the Fox Lane boundary of the site. This 3m setback is provided at ground level in order to facilitate a pedestrian pathway to the development. This provides amenity for future occupants and is thus supported.



Notwithstanding, in order to avoid an expansive, lengthy, unarticulated built form it is considered that the building should be further recessed from level 4 and above, creating a podium level and tower form above as intended by the provisions of this clause. This has not been occurred and the tower of the development does not provide an appropriate human scale within the narrow laneway. The proposal is not satisfactory with regards to the provisions of this clause.

### **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**

#### Traffic Impacts

The proposal was considered by the Bayside Traffic Development Advisory Committee on 10th August 2016, and the following recommendations were made:

*1. That the applicant needs to undertake road widening to accommodate a two-way traffic flow as well as garbage trucks, for entry and exit in a forward direction from the lane-way without mounting the kerb and footpaths. Swept paths for the same will have to be submitted to traffic team for further appraisal based on technical specifications of Council's garbage vehicles. A minimum 6m width is needed for two-way traffic flow with additional widening required depending on garbage vehicle turning paths.*

Comment: Revised plans illustrate that the proposed built form is setback 3m from the southern

boundary to Fox Lane. As a result this allows for the incorporation of a 1m wide footpath along this side, with associated planting of trees and shrubs along the southern boundary of the site. A manual calculation of the revised ground floor plan appears to illustrate that a 6m road width is now possible within Fox Lane kerb to kerb.

The applicant did not submit swept path details as required by Traffic Committee and as such an accurate assessment is unable to be undertaken in relation to the above.

*2. RMS requires any vehicles entering the laneway including delivery trucks to the property to be able to enter and leave in a forward direction. Appropriate manoeuvring space has to be provided on site.*

Comment: The applicant did not submit information to confirm the above nor to enable further referral to the RMS for comment. Further to the above the development cannot accommodate a garbage truck on site given the low head height clearances and as designed the proposal does not enable any vehicles larger than an SRV to enter and exit the site in a forward direction.

*3. That the street lighting be provided in the lane-way as per Ausgrid standards and public domain plan.*

Comment: Nil detail was provided by the applicant in respect of the above.

*4. The power pole at the corner of Fox Lane and Princes Highway, will have to be relocated if the lane is going to be widened.*

Comment: Nil detail regarding the proposed relocation of the power pole was provided by the applicant in respect of the above.

*5. Garbage collection cannot be carried out on street based on existing plans as there is insufficient lane width to enable Council's garbage vehicles to manoeuvre.*

Comment: As previously discussed within this report, a Council garbage truck is unable to enter and exit the site in a forward direction and insufficient head height is provided in the loading bay on site to facilitate garbage collection.

*6. Works zone cannot be provided in the lane-way due to the narrowness of the street. All construction and delivery vehicles will have to be undertaken within the site. there are other businesses which require access to their properties via the laneway. This access is to be maintained at all times during construction.*

Comment: The above is noted.

The above matters have not been satisfactorily addressed or resolved within revised plans and documentation. The proposal thus fails to satisfy the recommendations above and is unsatisfactory in this regard.

### **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. It is reiterated that the subject site is of insufficient

overall area to benefit from the bonus height provisions of Rockdale LEP 2011. The subject site is not suitable for the development as proposed, nor are there sufficient environmental planning grounds in which to support a variation to the relevant height standard for the site.

As such the proposal is recommended for Refusal and the site is not suitable for the proposed development in its current form.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and one (1) submission has been received. The issues raised in the submission are discussed below:

*An eleven (11) storey structure seems excessive considering the many high rise structures in the Rockdale CBD are only eight (8) storeys./ Eleven (11) storeys will produce considerable overshadowing to the east of this proposed development over the residential properties and their gardens that have been there for well over 50 years. I do not want hundreds of eyes from such a high rise looking into my property invading my privacy and that of my neighbours. From my back garden we already can see people on their eight-storey balconies in Bryant Street to the south of my property. Therefore eleven storeys will be even more intrusive. Perhaps nine storeys would not be so intrusive / This proposed structure will block some of the western late afternoon sun light over York and George Streets and therefore my property and that of my neighbours in George Street.*

Comment: Matters relating to height, overshadowing and visual privacy have been previously addressed in this report.

*Vehicles going in and out of the premises could also cause more congestion onto the already congested Princes Highway.*

Comment: Matters relating to traffic and car parking have been previously addressed in this report.

*This proposed structure is under the flight path. When my parents bought my property over 50 years ago they were advised by the relevant authorities that there was a height restriction in this area being under the flight path.*

Comment: The maximum permissible height limit as permitted by RLEP 2011 has taken into consideration the requirements of Sydney airport.

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

For the reasons outlined previously within this report, the proposed development is inconsistent with the requirements and objectives of relevant planning policies and as such is deemed to be unsatisfactory and not in the public interest in its current form.

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

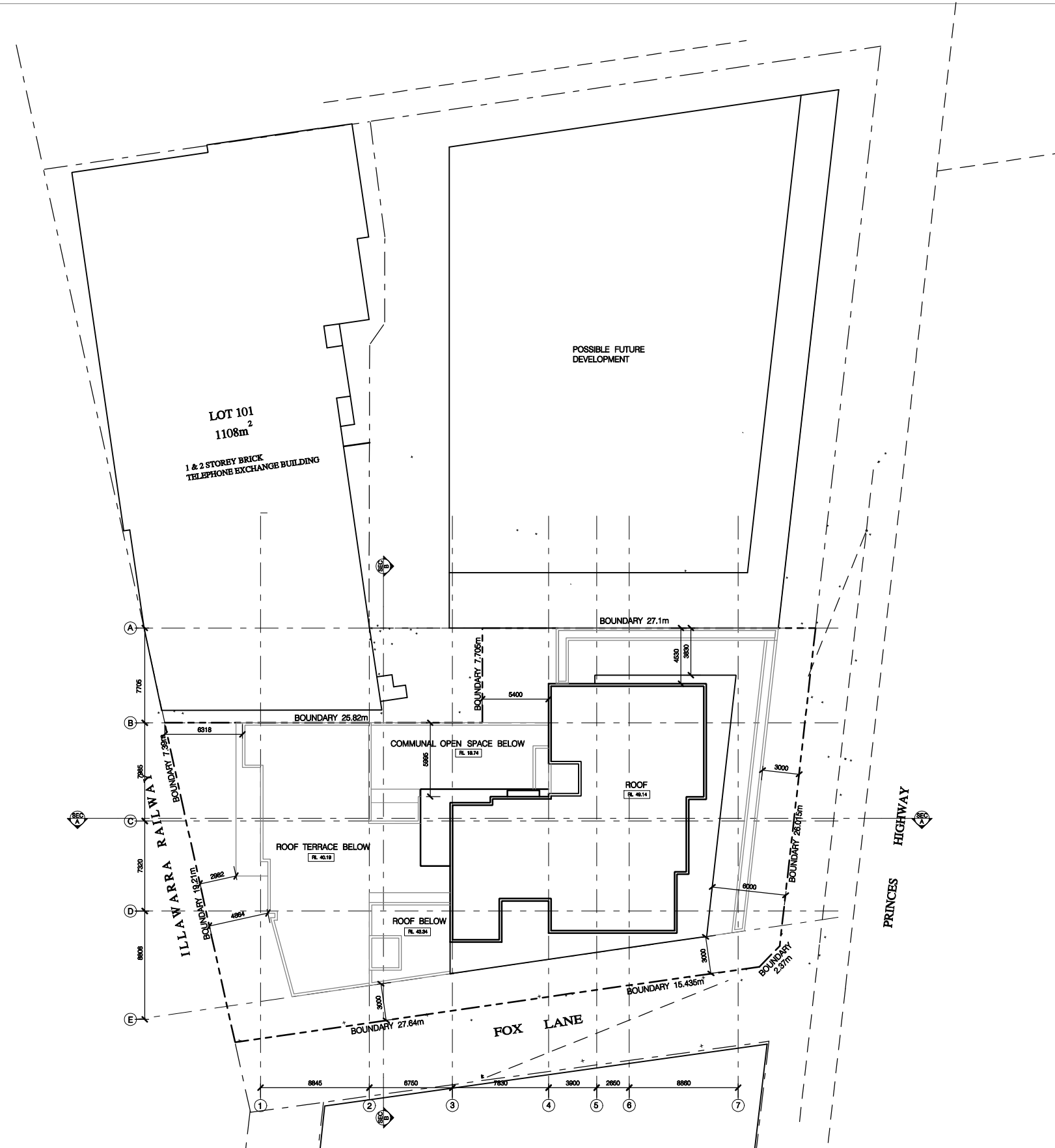
S94 contributions would apply to the development, as a result of the proposed increase in density, should the proposal have been supported.

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

---







BASIX THERMAL COMMITMENTS	
- All window and sliding door frames to be New Improved Aluminium	
- All glazing to be Pyrolytic Low 'E' (unless noted otherwise)	
Units: A3.1, A3.2, A3.3, A3.5	1. R2.5 Ceiling Insulation 2. R1.0 foil sided external wall insulation
Units: A2.1, A2.2	1. R1.0 foil sided insulation to underside of slab above Retail outdoor seating
Units: A1.4, A1.5	1. R1.0 foil sided insulation to underside of slab above driveway
Units: A10.3	1. R2.5 Ceiling Insulation 2. R1.0 foil sided external wall insulation 3. Living room glazing Double Glazed Low 'E'
Units: A9.4, A10-1, A10.2, A10.4, A10.5	1. R2.5 Ceiling Insulation

GFA CALCULATIONS

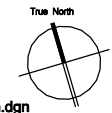
	COMMERCIAL	RESIDENTIAL	TOTAL
GROUND FLOOR	345 m2	31 m2	376 m2
FIRST FLOOR		496 m2	496 m2
SECOND FLOOR		649 m2	649 m2
THIRD FLOOR		533 m2	533 m2
FOURTH FLOOR		533 m2	533 m2
FIFTH FLOOR		533 m2	533 m2
SIXTH FLOOR		533 m2	533 m2
SEVENTH FLOOR		533 m2	533 m2
EIGHTH FLOOR		305 m2	305 m2
NINTH FLOOR		287 m2	287 m2
TENTH FLOOR		225 m2	225 m2
TOTAL	345 m2	4658 m2	5,003 m2

- SITE AREA = 1,306 m2  
- PROPOSED FSR- 3.83:1

Scale: 1:200 @A1 1:400 @A3



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_0100-Site plan.dgn  
Date Printed: 6/06/2016



NO	REV	REVISION DESCRIPTION	APPRO	DATE
1		ISSUE FOR DA		06.06.2016
2		DA ISSUE		09.09.2015
3		REVISION DESCRIPTION		
4		AMENDMENTS		



ARCHITECTURE & BUILDING WORKS

ABN 35 093 181 518  
Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9800  
Email: adm@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details:

MIXED USE DEVELOPMENT  
401 - 405 PRINCES HIGHWAY, ROCKDALE  
Client:  
PELIN IBRAHIM

Drawing Title:

SITE PLAN

Drawing Status:

AUTHORITY APPROVAL

Project Number:

PN-391

Issue:

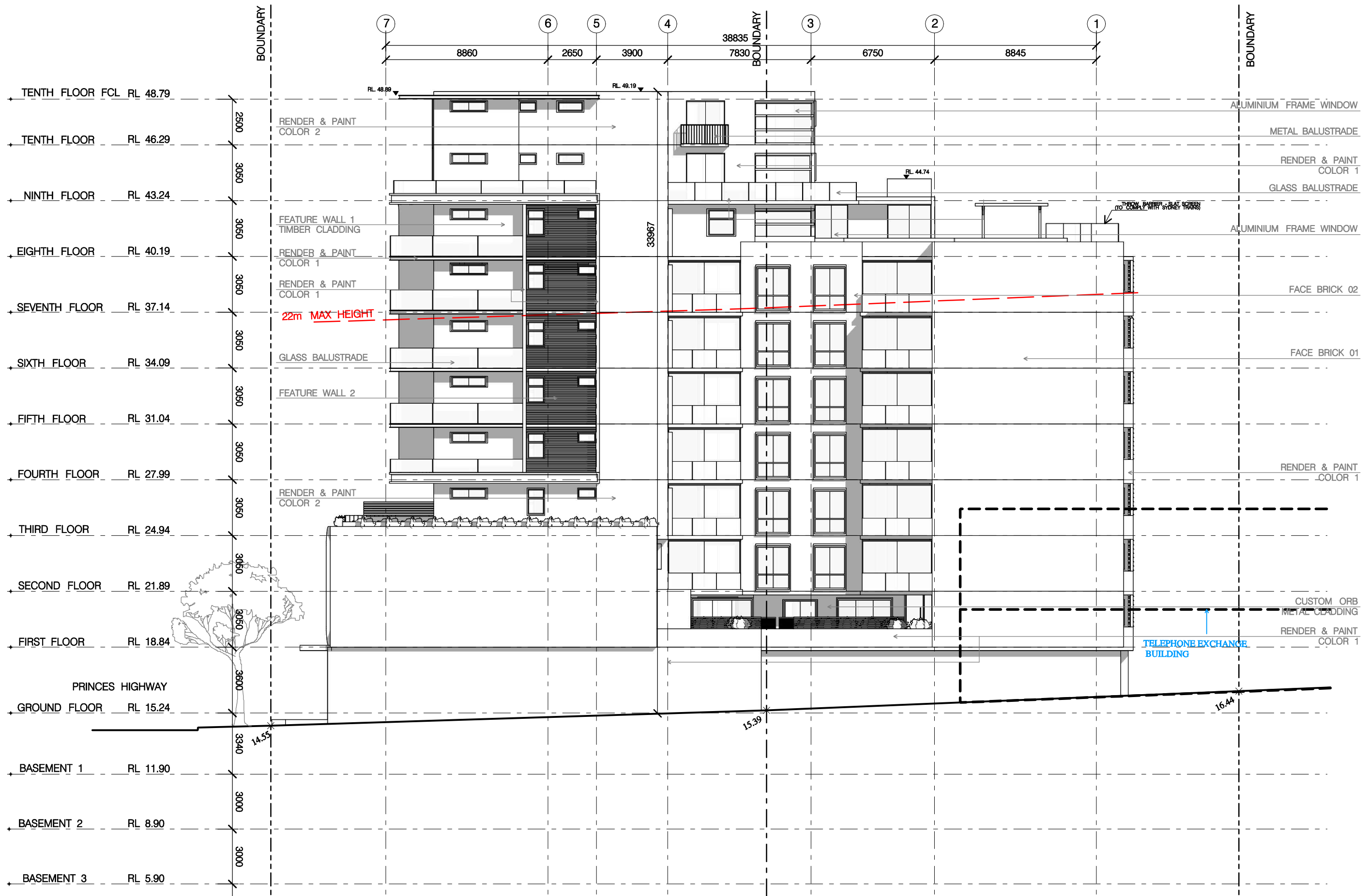
-

Date Printed:

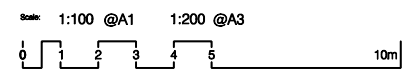
6/06/2016

Drawing Number:

Page 44  
A-0100



04 NORTH ELEVATION  
SCALE 1:200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1230-Elevations.dgn  
Date Printed: 6/06/2016

NO	REV	REVISION DESCRIPTION	DATE
1	1	ISSUE FOR DA	06.06.2016
2	1	DA ISSUE	09.09.2015
3	1	ISSUE FOR DA	
4	1	ISSUE FOR DA	
5	1	ISSUE FOR DA	

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9800  
 Email: admin@abworks.com.au

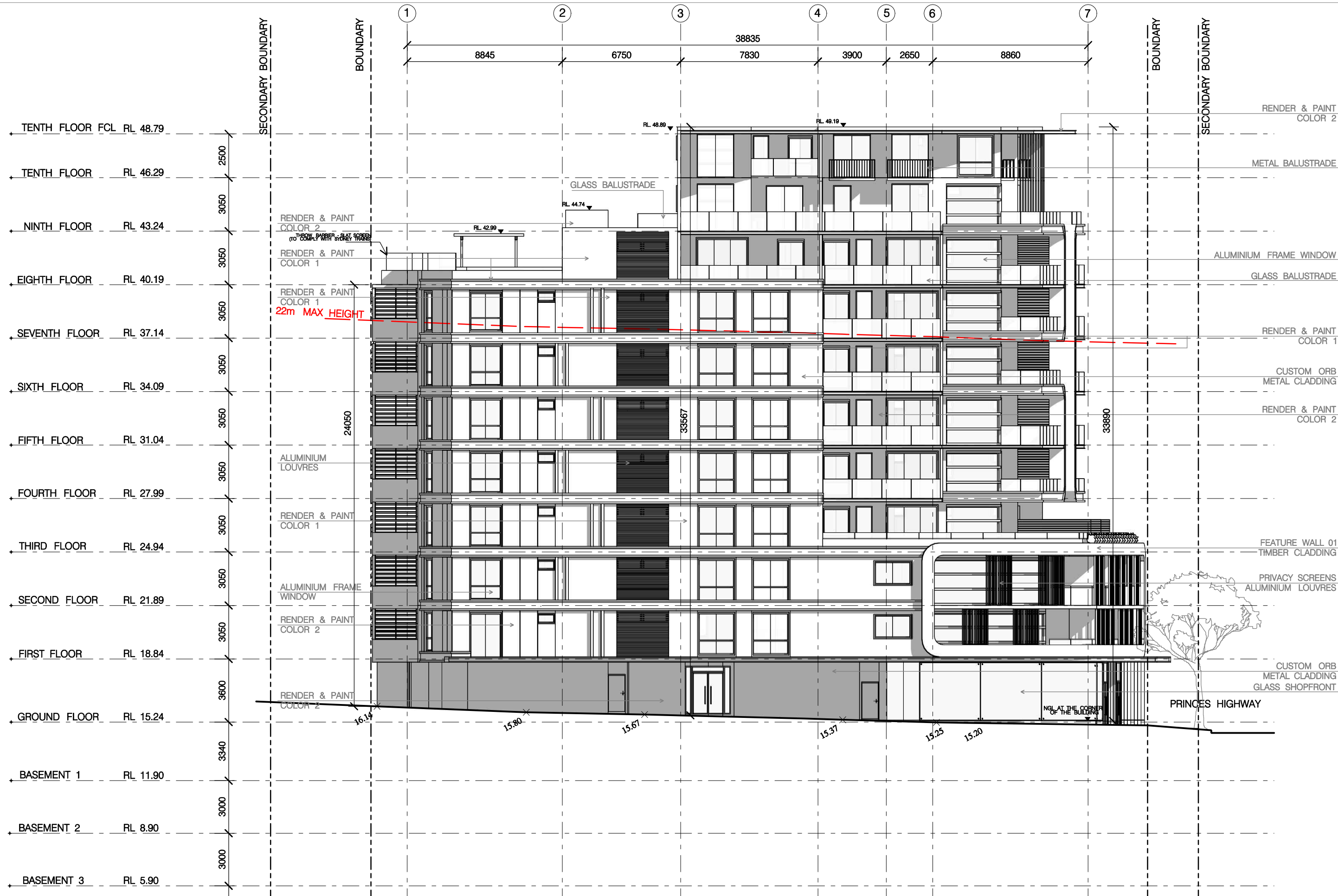
Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

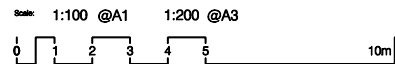
Drawing Title:  
**ELEVATIONS**  
 Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**

Issue:  
 Date Printed:  
 6/06/2016

Page 45  
 Drawing Number:  
**DA-1230**



02 SOUTH ELEVATION (FOX LANE)  
SCALE 1:200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1210-Elevations.dgn  
Date Printed: 6/06/2016

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
01	1	ISSUE FOR DA		06.06.2016
01	2	DA ISSUE		09.09.2015
01	3	REVISION DESCRIPTION		

ARCHITECTURE & BUILDING WORKS  
ABN 35 093 181 518

Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9800  
Email: admin@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details:

MIXED USE DEVELOPMENT  
401 - 405 PRINCES HIGHWAY, ROCKDALE

Client:  
PELIN IBRAHIM

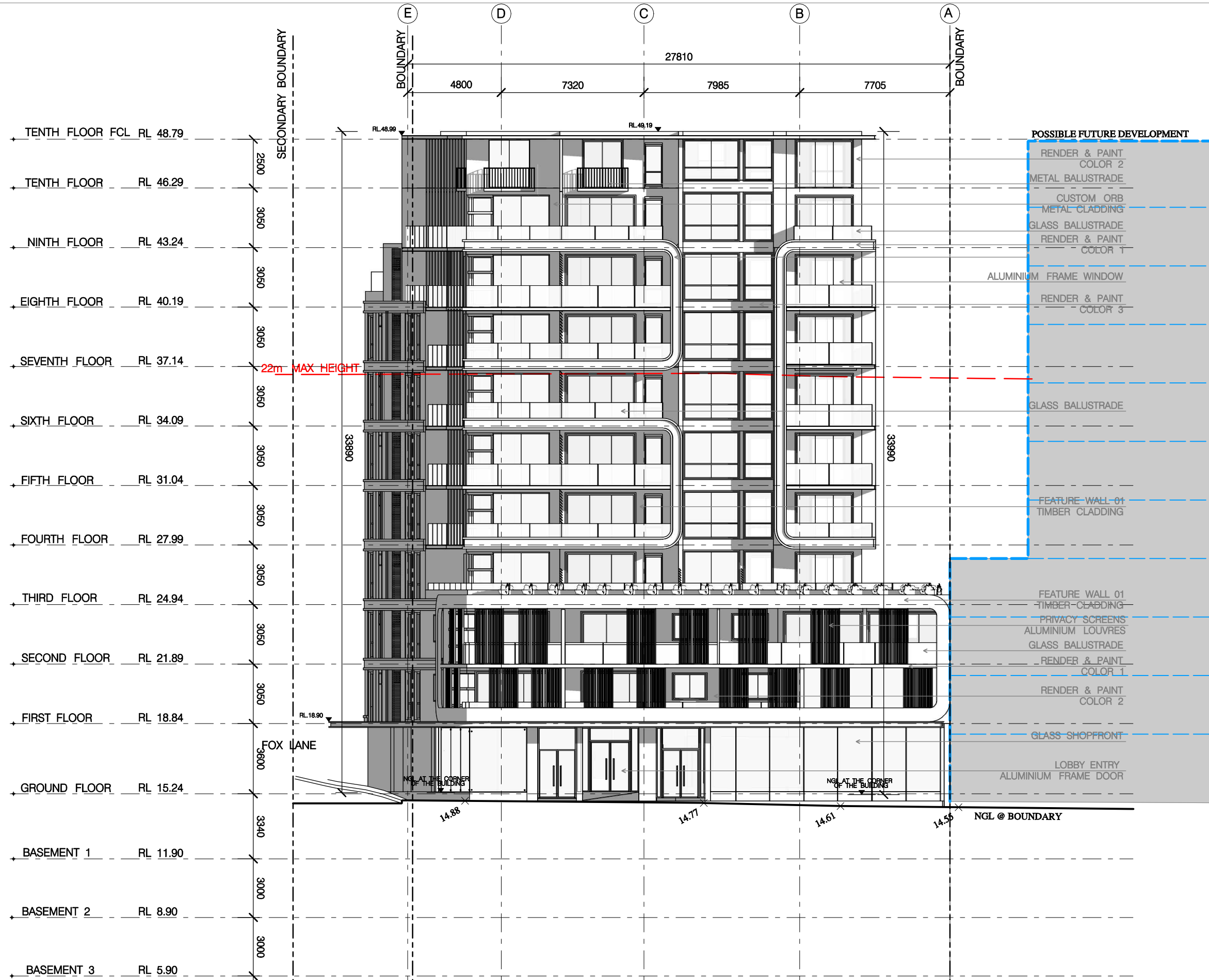
Drawing Title:  
ELEVATIONS

Drawing Status:  
AUTHORITY APPROVAL

Project Number:  
PN-391

Issue: -  
Date Printed:  
6/06/2016

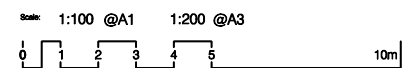
Page 46  
Drawing Number:  
DA-1210



**BASIX THERMAL COMMITMENTS**

- All window and sliding door frames to be New Improved Aluminium
- All glazing to be Pyrolytic Low 'E' (unless noted otherwise)
- Units: A3.1, A3.2, A3.3, A3.5
  - R2.5 Ceiling Insulation
  - R1.0 foil sided external wall insulation
- Units: A2.1, A2.2
  - R1.0 foil sided insulation to underside of slab above Retail outdoor seating
- Units: A1.4, A1.5
  - R1.0 foil sided insulation to underside of slab above driveway
- Units: A10.3
  - R2.5 Ceiling Insulation
  - R1.0 foil sided external wall insulation
  - Living room glazing Double Glazed Low 'E'
- Units: A9.4, A10-1, A10.2, A10.4, A10.5
  - R2.5 Ceiling Insulation

01 EAST ELEVATION (PRINCESS HIGHWAY)  
SCALE 1:200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1200-Elevations.dgn  
Date Printed: 6/06/2016

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
01	2	REISSUE FOR DA		06.06.2016
01	1	DA ISSUE		09.09.2015

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9800  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

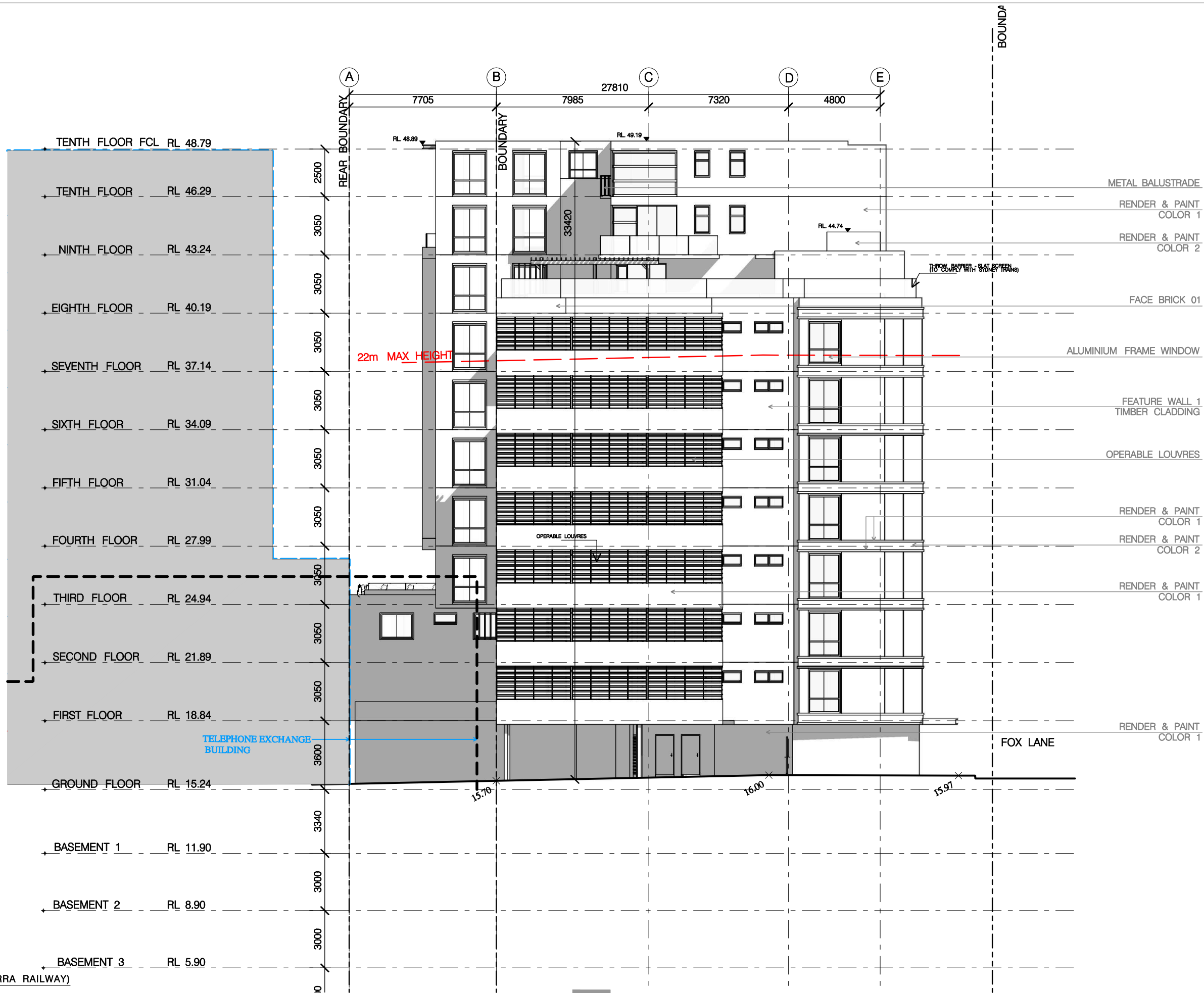
Drawing Title:  
**ELEVATIONS**

Drawing Status:  
**AUTHORITY APPROVAL**

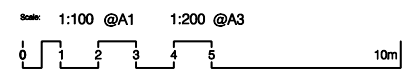
Project Number:  
**PN-391**

Issue: - Date Printed:  
 6/06/2016

Page 47 of 47  
 Drawing Number:  
**DA-1200**



03 WEST ELEVATION (ILLAWARRA RAILWAY)  
SCALE 1:200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1220-Elevations.dgn  
Date Printed: 6/06/2016

NO	REV	REVISION DESCRIPTION	DATE
1	1	ISSUE FOR DA	06.06.2016
2	2	DA ISSUE	09.09.2015
3	3	AMENDMENTS	

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9800  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

Drawing Title:  
**ELEVATIONS**

Drawing Status:  
**AUTHORITY APPROVAL**

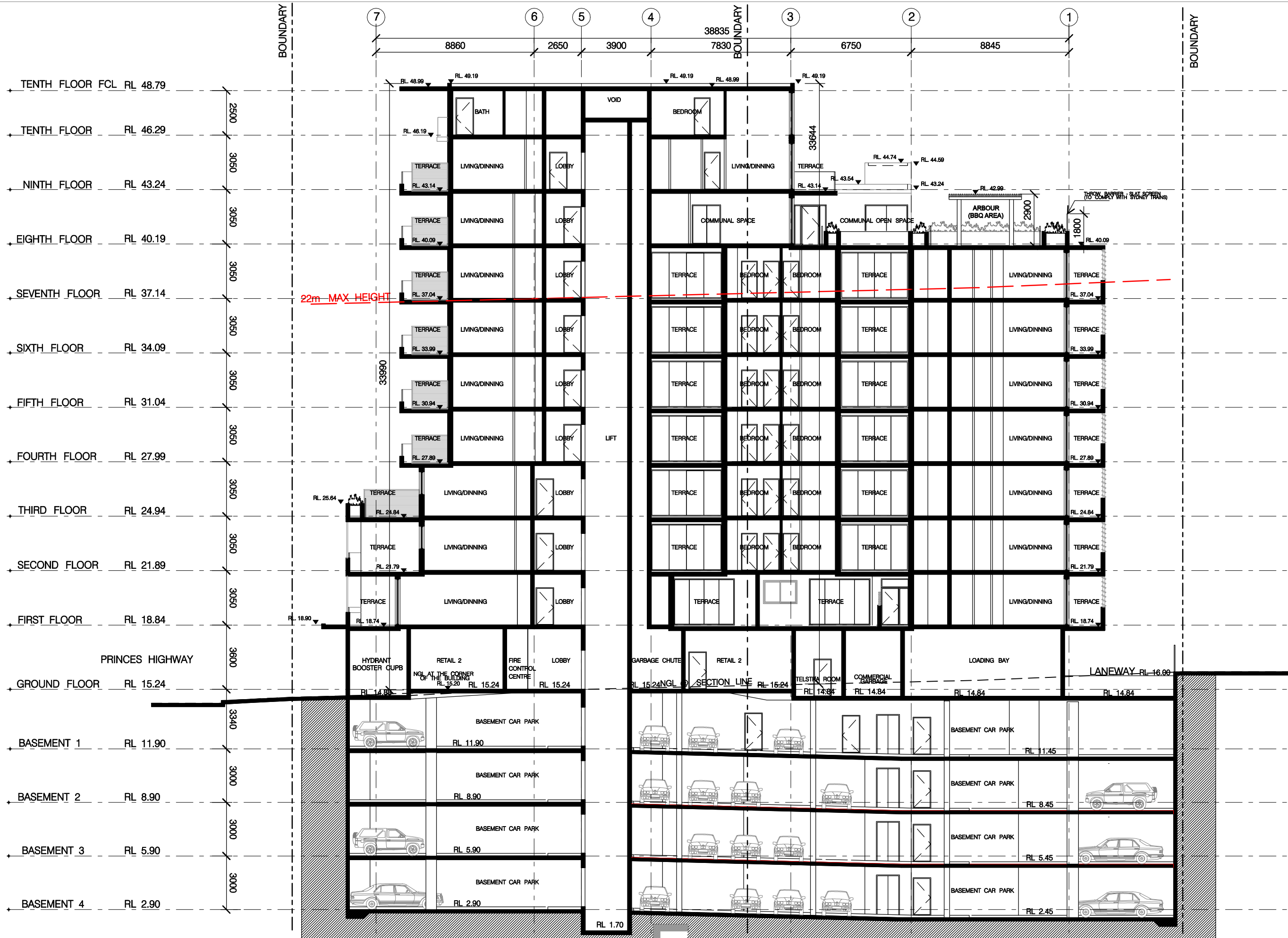
Project Number:  
**PN-391**

Issue:  
 -

Date Printed:  
 6/06/2016

Page 48  
 Drawing Number:  
**DA-1220**





Scale: 1:100 @A1 1:200 @A3  
 0 1 2 3 4 5 10m

h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1240-Section.dgn  
 Date Printed: 6/06/2016

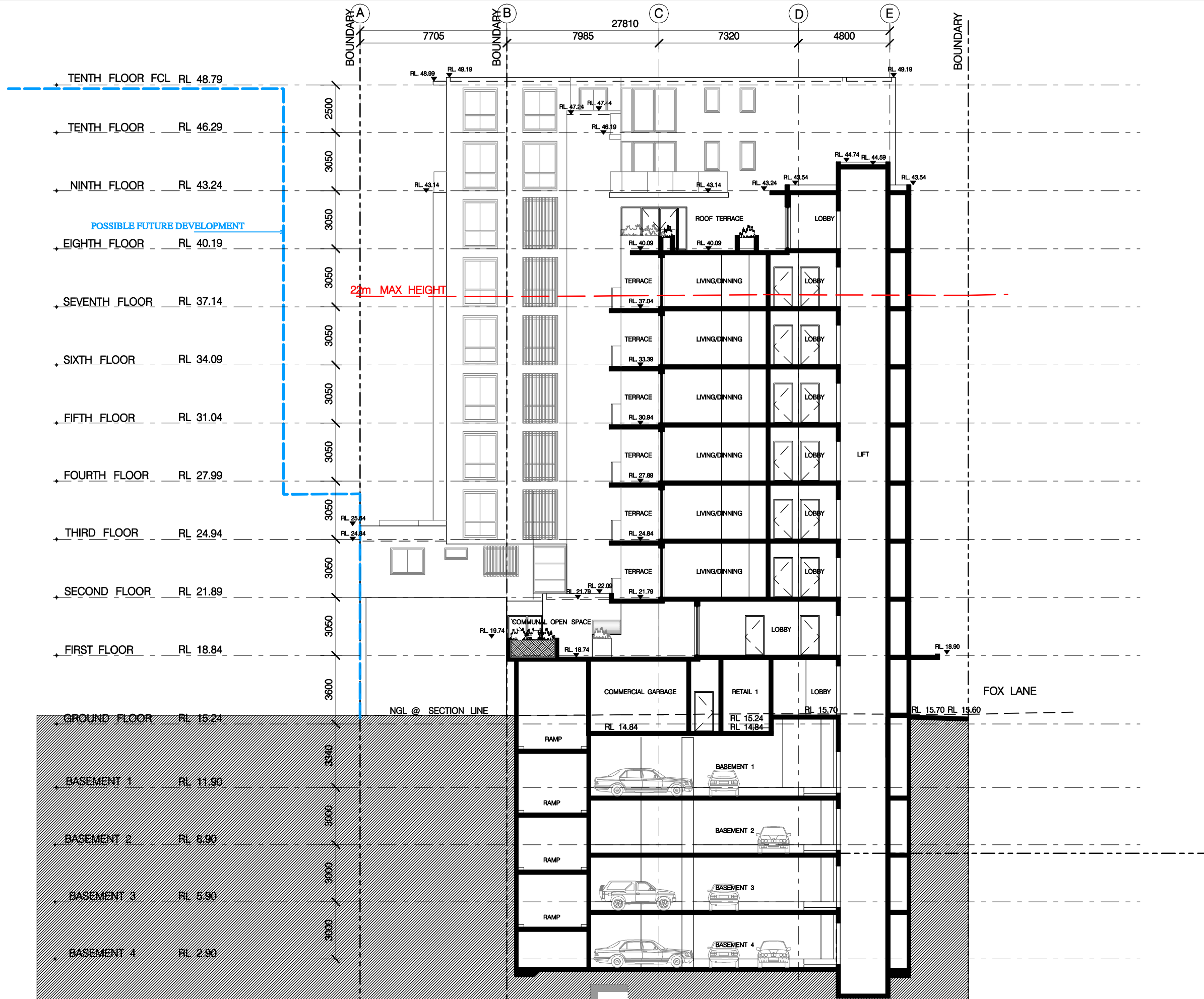
ISSUE	REV	REVISION DESCRIPTION	AMENDMENTS	BY	DATE
1	1	ISSUE FOR DA		DA	06.06.2016
2	1	DA ISSUE		MA	09.09.2015
3	1	ISSUE FOR DA		DA	06.06.2016
4	1	DA ISSUE		MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 083 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9800  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

Drawing Title:  
**SECTION A-A**  
 Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**  
 Issue:  
**P3**  
 Date Printed:  
**6/06/2016**  
 Drawing Number:  
**DA-1240**



Scale: 1:100 @A1 1:200 @A3  
 0 1 2 3 4 5 10m

h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1250-Section.dgn  
 Date Printed: 6/06/2016

NO	REV	REVISION DESCRIPTION	DATE
1	1	ISSUE FOR DA	06.06.2016
2	2	DA ISSUE	09.09.2015
3	3	AMENDMENTS	

**ARCHITECTURE & BUILDING WORKS**

ABN 35 083 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9800  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:

**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**

Client:  
**PELIN IBRAHIM**

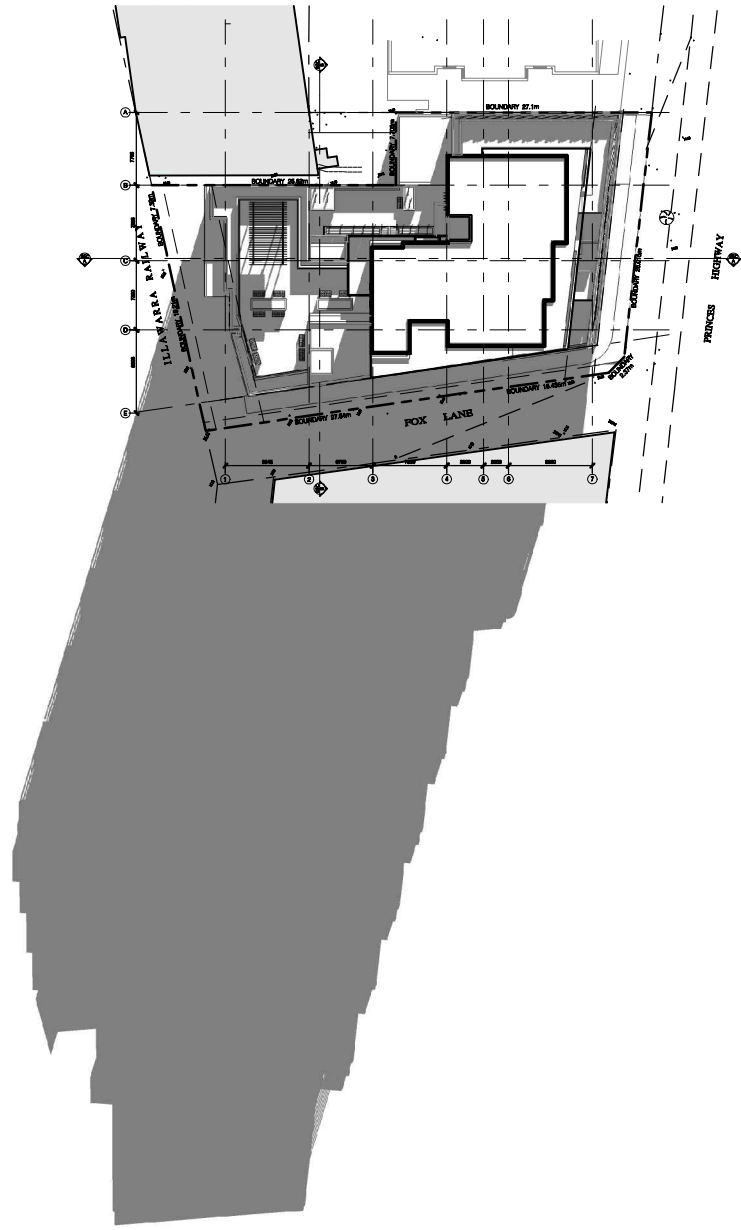
Drawing Title:  
**SECTION B-B**

Drawing Status:  
**AUTHORITY APPROVAL**

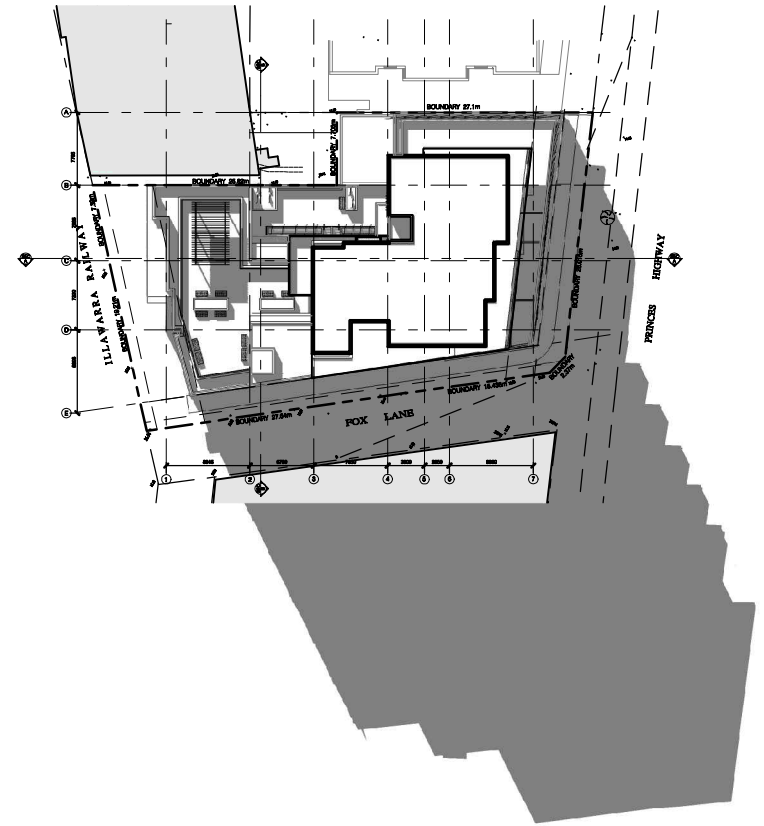
Project Number:  
**PN-391**

Issue: 6/06/2016

Page 50  
 Drawing Number:  
**DA-1250**



01 JUNE SHADOWS 09:00 AM  
SCALE 1:400@A1 1:800@A3



02 JUNE SHADOWS 12:00 PM  
SCALE 1:400@A1 1:800@A3

Scale: 1:400 @A1 1:800 @A3  
0 2.5 5 10 15 20 40m



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1300-Shadow Diagrams.dgn  
Date Printed: 6/06/2016

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015
AMENDMENTS				

**ARCHITECTURE & BUILDING WORKS**

ABN 35 093 181 518  
Level 3, Suite 6, 7-9 Gibbons Street  
Rockferry NSW 2016  
Australia  
Tel: (02) 8052 9800  
Email: admin@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

**Project Details:**

**MIXED USE DEVELOPMENT  
401 - 405 PRINCES HIGHWAY, ROCKDALE**  
Client:  
**PELIN IBRAHIM**

Drawing Title: SHADOW DIAGRAMS Issue: - Date Printed: 6/06/2016

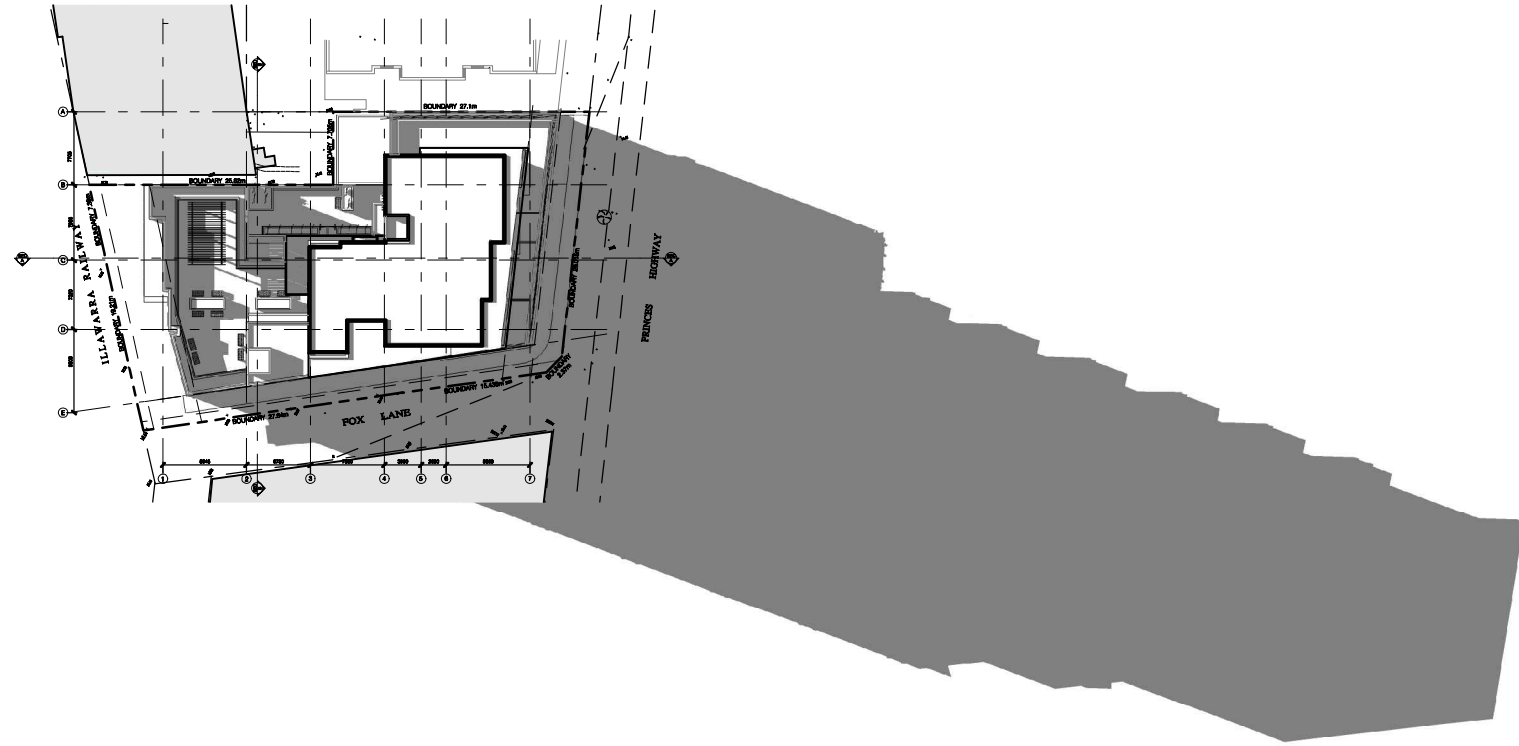
Drawing Status: AUTHORITY APPROVAL

Project Number: PN-391

Page 51

Drawing Number: DA-1300





01 JUNE SHADOWS 09:00 AM  
SCALE 1:400@A1 1:800@A3



02 SEPTEMBER SHADOWS 09:00 AM  
SCALE 1:400@A1 1:800@A3

Scale: 1:400 @A1 1:800 @A3  
0 2.5 5 10 15 20 40m



h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1310-Shadow Diagrams.dgn  
Date Printed: 6/06/2016

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015
AMENDMENTS				

**ARCHITECTURE & BUILDING WORKS**  
ABN 35 093 181 518  
Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9800  
Email: admin@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
Client:  
**PELIN IBRAHIM**

Drawing Title: SHADOW DIAGRAMS  
Drawing Status: AUTHORITY APPROVAL  
Project Number: PN-391  
Issue: -  
Date Printed: 6/06/2016  
Drawing Number: DA-1310

BOTANICAL NAME		COMMON NAME	MATURE HEIGHT (M)	MATURE SPREAD (M)	QUANTITY	SIZE	STAKING	YES
Ec	Elaeocarpus reticulatus	Blueberry Ash	4 - 6m	4 - 6m	8	200L	YES	
Mu	Malus tschonoskii	Crab Apple	4 - 6m	3 - 4m	4	200L	YES	
Ti	Tristaniopsis laurina	Kanooka Water Gum	5 - 10m	3.5 - 6m	2	200L	YES	
cs	Carissa 'Desert Star'	Desert Star	0.45 - 0.6m	0.6 - 0.9m	125	5L	N/A	
mi	Metrosideros tomentosa 'Dalese'	New Zealand Christmas Bush	0.9 - 1.5m	0.6 - 0.9m	4	15L	NO	
ps	Pittosporum tobira 'Miss Muffet'	Pittosporum 'Miss Muffet'	0.5m	0.5m	30	15L	NO	
sp	Syzygium australe 'Resilience'	Lilly Pilly	3m	1.5m	5	25L	YES	
vt	Viburnum tinus		3 - 5m	2-3m	11	25L	YES	
<b>Accents and Features</b>								
ay	Agave attenuata	Lions Tail	0.6 - 0.75m	0.6 - 0.9m	17	25L	N/A	
am	Alpinia mutica	False Cardamom Ginger	1.5m - 2.0m	0.9 - 1.5m	90	5L	N/A	
ba	Bambusa chungii	Tropical Blue Bamboo	5 - 10m	2.0 - 3.5m	2	45L	YES	
bp	Bambusa nana	Nana	3 - 5m	2.0 - 3.5m	4	45L	YES	
bx	Bambusa textilis var. gracilis	Slender Weavers Bamboo	3 - 5m	2.0 - 3.5m	3	45L	YES	
eo	Echium candicans	Pride of Madeira	0.9 - 1.5m	1.2 - 2.0m	11	15L	N/A	
ei	Elettaria cardamomum	Cardamomum	1.5 - 3m	1.2 - 2.0m	5L	N/A	N/A	
re	Raphis excelsa	Lady Palm	3 - 5m	2.0 - 3.5m	13	25L	NO	
yy	Yucca gloriosa	Spanish Gagger	1.5 - 3m	1.2 - 2.0m	9	25L	NO	
za	Zamia furfuracea	Cardboard Palm	0.9 - 1.5m	0.9 - 1.2m	20	15L	N/A	
<b>Groundcovers and Climbers</b>								
	Ajuga Reptans 'Catlins Giant'	Bugle Plant	N/A	N/A	100	100mm	N/A	
	Myoporum parvifolium 'Yareena'	Myoporum	N/A	N/A	220	100mm	N/A	
	Trachelospermum asiaticum	Japanese Star Jasmine	N/A	N/A	26	100mm	N/A	

Sheet 1 of 6

REV.	AMENDMENT	INT.	DATE
C	ARCHITECTURAL REVISIONS	MW	25.05.16
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15
A	AUTHORITY APPROVAL	MW	26.06.15

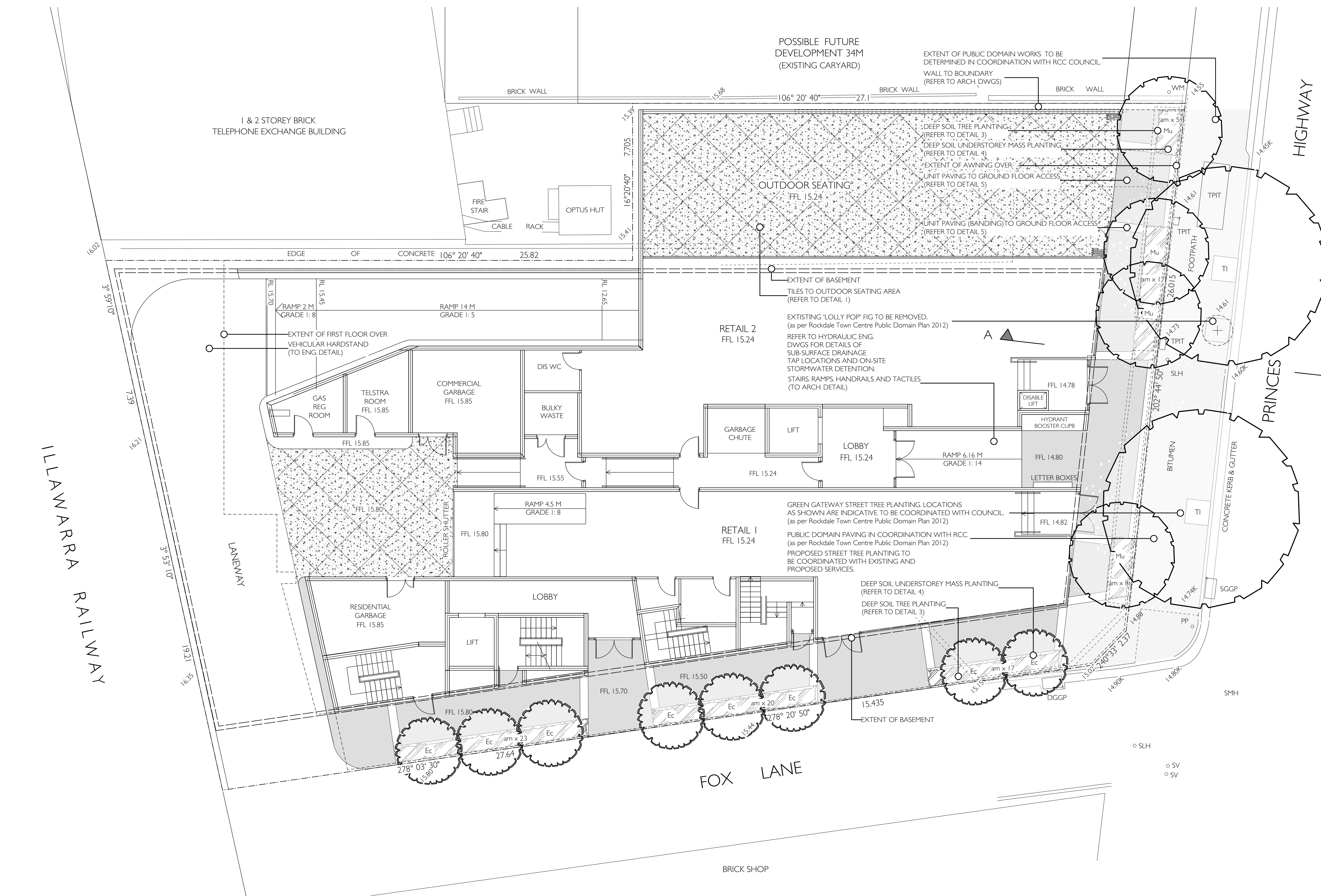
**LANDSCAPE PLAN**

GROUND FLOOR 401-405 PRINCES HIGHWAY, ROCKDALE 2216

DWG: IS0181DA1  
ISSUE: C

DATE: MAY 2016  
SCALE: 1:100@A1

Page 53 of 10m



**MAINTENANCE SPECIFICATION**

Maintenance shall apply to all soft landscape materials installed as per landscape plan IS0181DA1, IS0181DA4 and as accepted by Rockdale City Council. Maintenance of softworks shall be for a minimum of 52 weeks after practical completion.

Minimum recurrent maintenance shall be as per schedule and consist but not be limited to the following works:

- Water all plants twice per week or as necessary to ensure maximum plant growth. For the first 8 weeks from establishment maintain moisture to a depth of 100mm.
- Apply appropriate weed control sprays where necessary.
- Regularly cultivate to ensure water penetration to plants and to keep the area in a neat and tidy condition. Re-mulch as necessary to all mass planted areas.
- Spray to control pests and diseases.
- Apply organic slow release fertiliser to garden areas at 3 monthly intervals through spring and summer. Organic liquid fertiliser to be applied throughout spring & summer as required.
- Replace plants which fail with plants of a similar size and quality as originally specified (at contractors cost) prior to next inspection.
- Report any incidence of plants stolen or destroyed by vandalism. Replace as requested.
- Adjust stakes and ties to plants as necessary. Ensure strangulation of plants does not occur.
- Prune and shape plants as required. Shrub plantings to street frontage on-structure planters are to be pruned to form contiguous foliage clump.
- Defects of faults arising out of defective workmanship are to be made good.
- Irrigation system and components are to be inspected at regular intervals to ensure correct operation. Minor repairs are to be undertaken to components. System failures are to be reported to body corporate representative for action.
- A final inspection shall be made by the landscape architect at the conclusion of the 52 week maintenance period. Any items requiring rectification shall be repaired to satisfaction of the Landscape Architect.

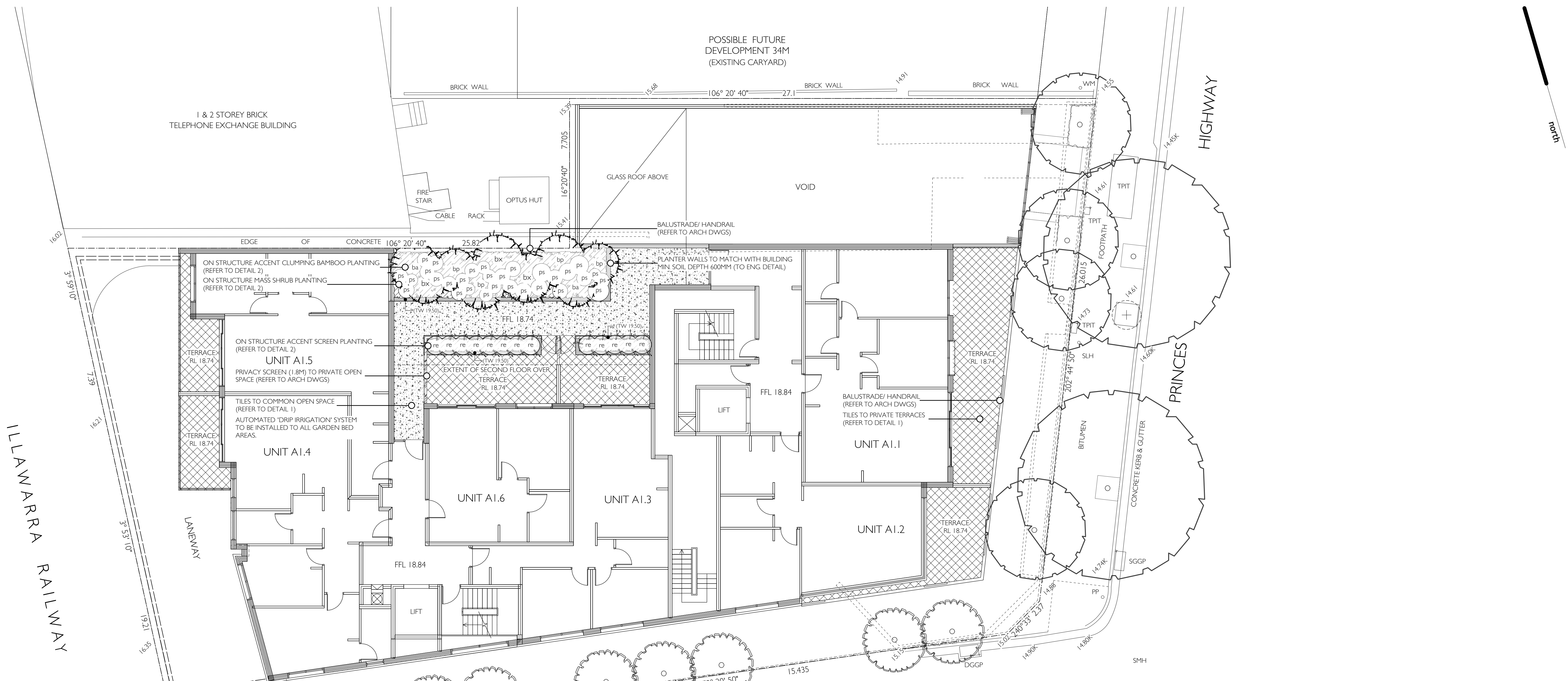
**MAINTENANCE SCHEDULE**

	December-February	March-May	June-August	September-November
<b>WATERING</b>				
Turf	n/a	n/a	n/a	n/a
Garden Areas	Twice weekly	Weekly	As required	Weekly
<b>WEED CONTROL</b>				
Turf	n/a	n/a	n/a	n/a
Garden Areas	Fortnightly	As required	As required	Fortnightly
<b>PEST CONTROL</b>				
Turf	n/a	n/a	n/a	n/a
Garden Areas	Monthly	As required	As required	Quarterly
<b>FERTILISING</b>				
Turf	n/a	n/a	n/a	n/a
Garden Areas	Quarterly			Quarterly
<b>PRUNING</b>				
Turf	Weekly	As required	As required	Fortnightly
<b>TOP DRESSING (Annually)</b>				
Turf	n/a	n/a	n/a	n/a
<b>MOWING</b>				
Turf	n/a	n/a	n/a	n/a
<b>MULCHING (annually)</b>				
Garden Areas				October

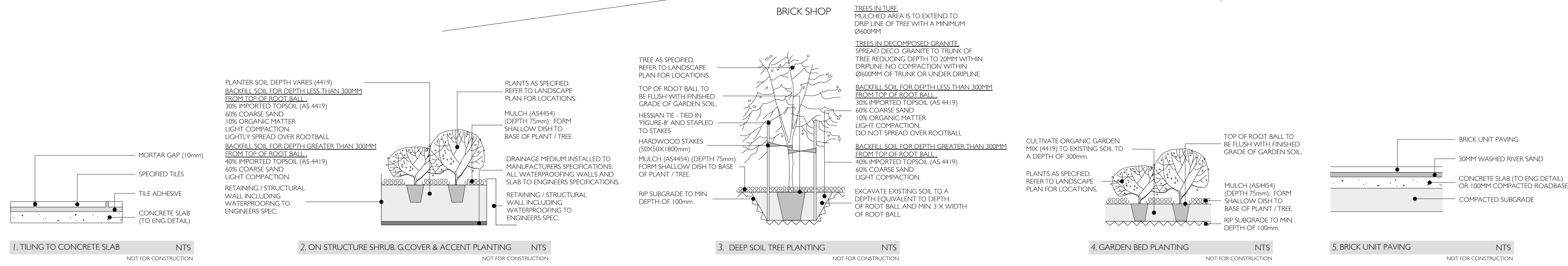
**KEY**

- EXISTING LEVELS
- PROPOSED LEVELS
- EXISTING TREE TO BE RETAINED
- EXISTING STRUCTURES TO BE REMOVED
- EXTENT OF BASEMENT
- TILES TO PRIVATE TERRACES (REFER TO DETAIL 1)
- TILES TO COMMON OPEN SPACE (REFER TO DETAIL 1)
- UNIT PAVING TO GROUND FLOOR ACCESS (REFER TO DETAIL 5)
- PUBLIC DOMAIN PAVING (as per Rockdale Town Centre Public Domain Plan 2012)
- PLANTER WALLS (min soil depth 300mm) (TO ENG. DETAILS)
- PLANTER WALLS (min soil depth 600mm) (TO ENG. DETAILS)
- MASS PLANTING ACCENT GROUND COVER (AJUGA REPTANS 'CATLINS GIANT') @ 0.3m spacing
- PROPOSED ACCENT MASS PLANTING (ALPINIA MUTICA) @ 0.5m spacing
- CASCADING MASS PLANTINGS (CARISSA 'DESERT STAR') @ 0.4m spacing
- MASS PLANTING ACCENT GROUND COVER (MYOPORUM PARVIFOLIUM 'YAREENA') @ 0.3m spacing
- MASS PLANTING ACCENT GROUND COVER (TRACHELOSPERMUM ASIATICUM) @ 0.3m spacing

TOTAL AREA OF SOFT LANDSCAPING - 37m<sup>2</sup> - 3% of total site area



KEY	
14.93	EXISTING LEVELS
+ 14.90	PROPOSED LEVELS
+ 14.61	EXISTING TREE TO BE RETAINED
---	EXISTING STRUCTURES TO BE REMOVED
---	EXTENT OF BASEMENT
[Pattern]	TILES TO PRIVATE TERRACES (REFER TO DETAIL 1)
[Pattern]	TILES TO COMMON OPEN SPACE (REFER TO DETAIL 1)
[Pattern]	UNIT PAVING TO GROUND FLOOR ACCESS (REFER TO DETAIL 5)
[Pattern]	PUBLIC DOMAIN PAVING (as per Rockdale Town Centre Public Domain Plan 2012)
[Pattern]	PLANTER WALLS (min soil depth 300mm) (TO ENG. DETAILS)
[Pattern]	PLANTER WALLS (min soil depth 600mm) (TO ENG. DETAILS)
[Pattern]	MASS PLANTING ACCENT GROUND COVER (AJUGA REPTANS 'CATLINS GIANT') @ 0.3m spacing
[Pattern]	PROPOSED ACCENT MASS PLANTING (ALPINIA MUTICA) @ 0.5m spacing
[Pattern]	CASCADING MASS PLANTINGS (CARISSA 'DESERT STAR') @ 0.4m spacing
[Pattern]	MASS PLANTING ACCENT GROUND COVER (MYOPORUM PARVIFOLIUM 'YAREENA') @ 0.3m spacing
[Pattern]	MASS PLANTING ACCENT GROUND COVER (TRACHELOSPERMUM ASIATICUM) @ 0.3m spacing
TOTAL AREA OF SOFT LANDSCAPING - 37m <sup>2</sup> - 3% of total site area	



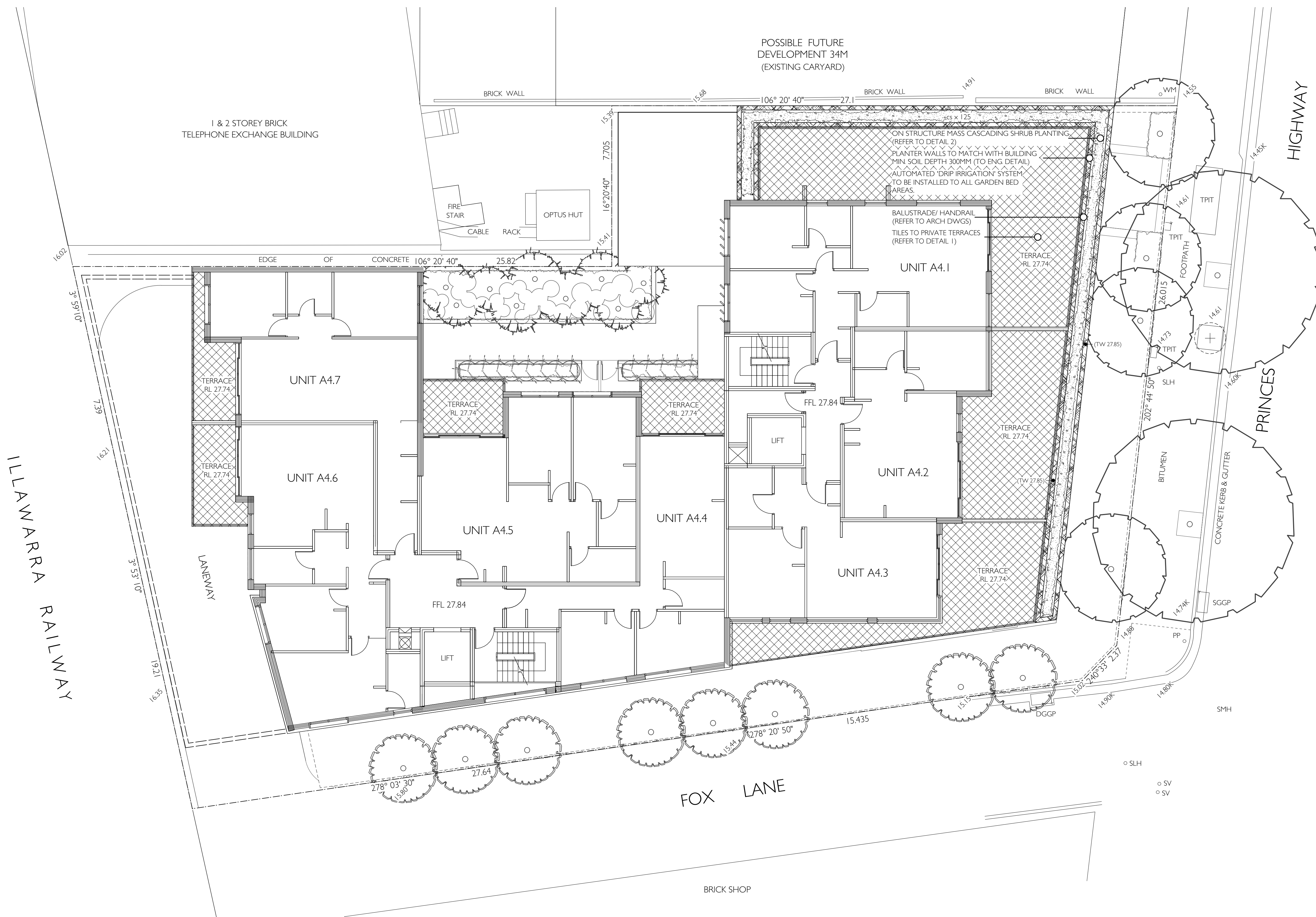
Sheet 2 of 6		REV:	AMENDMENT:	INT:	DATE:
C	ARCHITECTURAL REVISIONS	MW	25.05.16		
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15		
A	AUTHORITY APPROVAL	MW	26.06.15		

LANDSCAPE PLAN		DWG: IS0181DA2
FIRST FLOOR		ISSUE: C
401-405 PRINCES HIGHWAY, ROCKDALE 2216		
DATE:	MAY 2016	
SCALE:	1:100@A1	

**isthmus**  
Landscape Design

<b>isthmus pty ltd</b>	<b>ACN 107 962 149</b>
21 Central Avenue	Como 2226
Ph: +61 2 9528 4303	www.isthmus.com.au
Email: landscape@isthmus.com.au	





POSSIBLE FUTURE DEVELOPMENT 34M (EXISTING CARYARD)

1 & 2 STOREY BRICK TELEPHONE EXCHANGE BUILDING

ILLAWARRA RAILWAY

HIGHWAY

PRINCES

FOX LANE

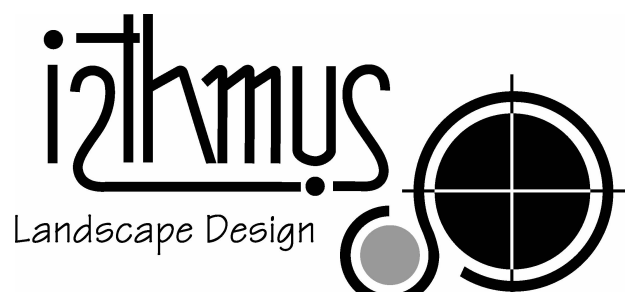
BRICK SHOP

KEY	
14.93	EXISTING LEVELS
+ 14.90	PROPOSED LEVELS
+ 14.61	EXISTING TREE TO BE RETAINED
---	EXISTING STRUCTURES TO BE REMOVED
---	EXTENT OF BASEMENT
[Cross-hatch pattern]	TILES TO PRIVATE TERRACES (REFER TO DETAIL 1)
[Dotted pattern]	TILES TO COMMON OPEN SPACE (REFER TO DETAIL 1)
[Solid grey]	UNIT PAVING TO GROUND FLOOR ACCESS (REFER TO DETAIL 5)
[Light grey]	PUBLIC DOMAIN PAVING (as per Rockdale Town Centre Public Domain Plan 2012)
[Diagonal lines]	PLANTER WALLS (min soil depth 300mm) (TO ENG. DETAILS)
[Diagonal lines]	PLANTER WALLS (min soil depth 600mm) (TO ENG. DETAILS)
[Stippled pattern]	MASS PLANTING ACCENT GROUND COVER (AJUGA REPTANS 'CATLINS GIANT') @ 0.3m spacing
[Stippled pattern]	PROPOSED ACCENT MASS PLANTING (ALPINIA MUTICA) @ 0.5m spacing
[Stippled pattern]	CASCADING MASS PLANTINGS (CARISSA 'DESERT STAR') @ 0.4m spacing
[Stippled pattern]	MASS PLANTING ACCENT GROUND COVER (MYOPOBUM PARVIFOLIUM 'YAREENA') @ 0.3m spacing
[Stippled pattern]	MASS PLANTING ACCENT GROUND COVER (TRACHELOSPERMUM ASIATICUM) @ 0.3m spacing
TOTAL AREA OF SOFT LANDSCAPING - 37m <sup>2</sup> - 3% of total site area	

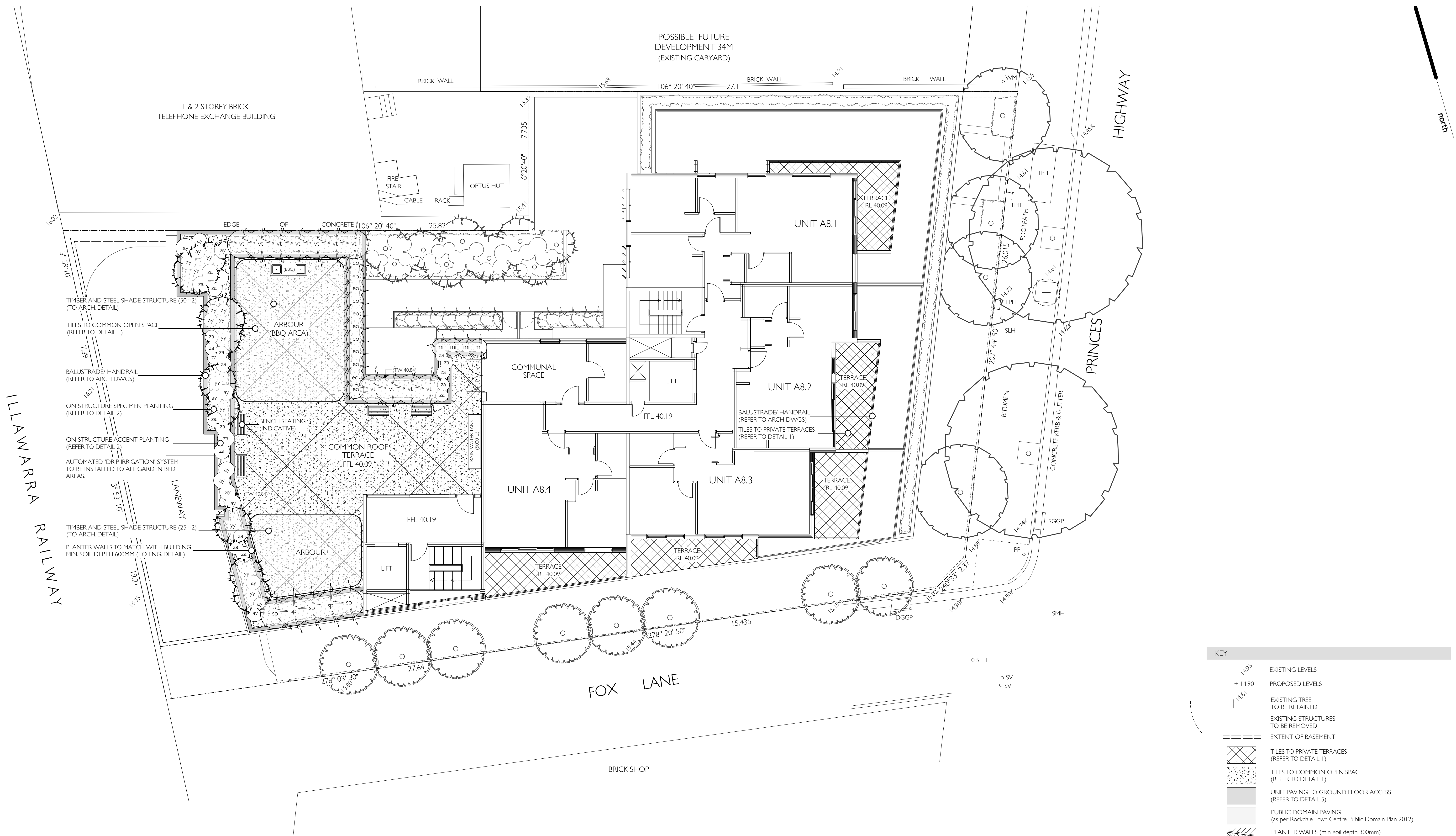
Sheet 3 of 6

REV.	AMENDMENT:	INT.	DATE:
C	ARCHITECTURAL REVISIONS	MW	25.05.16
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15
A	AUTHORITY APPROVAL	MW	26.06.15

LANDSCAPE PLAN		DWG: IS0181DA3
FOURTH FLOOR 401-405 PRINCES HIGHWAY, ROCKDALE 2216		ISSUE: C
DATE:	MAY 2016	
SCALE:	1:100@A1	



<b>isthmus pty ltd</b>	<b>ACN 107 962 149</b>
21 Central Avenue	Como 2226
Ph: +61 2 9528 4303	www.isthmus.com.au
Email: landscape@isthmus.com.au	



POSSIBLE FUTURE DEVELOPMENT 34M (EXISTING CARYARD)

1 & 2 STOREY BRICK TELEPHONE EXCHANGE BUILDING

HIGHWAY

PRINCES

FOX LANE

BRICK SHOP

ILLANARRA RAILWAY

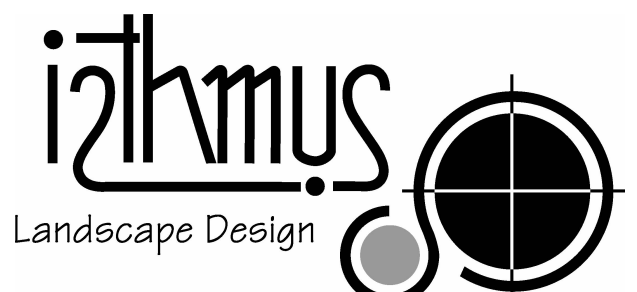
LANEMAN

KEY	
14.93	EXISTING LEVELS
+ 14.90	PROPOSED LEVELS
+ 14.61	EXISTING TREE TO BE RETAINED
- - - - -	EXISTING STRUCTURES TO BE REMOVED
- - - - -	EXTENT OF BASEMENT
[Cross-hatch pattern]	TILES TO PRIVATE TERRACES (REFER TO DETAIL 1)
[Dotted pattern]	TILES TO COMMON OPEN SPACE (REFER TO DETAIL 1)
[Solid grey]	UNIT PAVING TO GROUND FLOOR ACCESS (REFER TO DETAIL 5)
[Light grey]	PUBLIC DOMAIN PAVING (as per Rockdale Town Centre Public Domain Plan 2012)
[Hatched pattern]	PLANTER WALLS (min soil depth 300mm) (TO ENG. DETAILS)
[Hatched pattern]	PLANTER WALLS (min soil depth 600mm) (TO ENG. DETAILS)
[Diagonal lines]	MASS PLANTING ACCENT GROUNDCOVER (AJUGA REPTANS 'CATLINS GIANT') @ 0.3m spacing
[Diagonal lines]	PROPOSED ACCENT MASS PLANTING (ALPINIA MUTICA) @ 0.5m spacing
[Diagonal lines]	CASCADING MASS PLANTINGS (CARISSA 'DESERT STAR') @ 0.4m spacing
[Dotted pattern]	MASS PLANTING ACCENT GROUNDCOVER (MYOPORUM PARVIFOLIUM 'YAREENA') @ 0.3m spacing
[Diagonal lines]	MASS PLANTING ACCENT GROUNDCOVER (TRACHELOSPERMUM ASIATICUM) @ 0.3m spacing
TOTAL AREA OF SOFT LANDSCAPING - 37m <sup>2</sup> - 3% of total site area	

Sheet 4 of 6

REV.	AMENDMENT:	INT.	DATE:
C	ARCHITECTURAL REVISIONS	MW	25.05.16
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15
A	AUTHORITY APPROVAL	MW	26.06.15

LANDSCAPE PLAN		DWG: IS0181DA4
EIGHTH FLOOR		ISSUE: C
401-405 PRINCES HIGHWAY, ROCKDALE 2216		
DATE:	MAY 2016	
SCALE:	1:100@A1	



<b>isthmus pty ltd</b>	<b>ACN 107 962 149</b>
21 Central Avenue	Como 2226
Ph: +61 2 9528 4303	www.isthmus.com.au
Email: landscape@isthmus.com.au	



1 2 3 4 5 6 7



FOX LANE ELEVATION

REV.	AMENDMENT:	INT.	DATE
C	ARCHITECTURAL REVISIONS	MW	25.05.16
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15
A	AUTHORITY APPROVAL	MW	26.06.15

<b>LANDSCAPE PLAN</b>		DWG: IS0181DA6
ELEVATIONS		ISSUE: C
401-405 PRINCES HIGHWAY, ROCKDALE 2216		
DATE:	MAY 2016	
SCALE:	1:100@A1	
0 1 5 10m		Page 57





FUTURE DEVELOPMENT



REV.	AMENDMENT:	INT.	DATE:
C	ARCHITECTURAL REVISIONS	MW	25.05.16
B	AUTHORITY APPROVAL - REVISION TO GROUND FLOOR	MW	09.11.15
A	AUTHORITY APPROVAL	MW	26.06.15





Unit 2, 182 Old Canterbury Road  
Summer Hill, NSW, 2130  
Ph: 02 9798 0953  
Fax: 02 9797 7696  
andrew\_arps@bigpond.com



## Amended Clause 4.6 Exceptions to Development Standards Clause 4.3 Height of Buildings - Rockdale Local Environmental Plan 2011

### Proposed Construction of a Part Eight Storey and Part Eleven (11) Storey Shop Top Housing Development - Nos. 401-405 Princes Highway, Rockdale

#### 1.0 Introduction

This amended Clause 4.6 Exceptions to Development Standards request has been prepared by Andrew Robinson Planning Services Pty Ltd on behalf of Hellublott Pty Ltd to accompany a development application for a proposed shop top housing development at Nos. 401-405 Princes Highway, Rockdale.

The Clause 4.6 Exceptions to Development Standards request relates to the height of buildings principal development standard prescribed under subclause 4.3(2) of *Rockdale Local Environmental Plan 2011*. Subclause 4.3(2) states:

*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map indicates a maximum building height of 22m applies to the site (refer to **Figure 1**).

When measured in accordance with the definition for building height under the LEP, the proposed development has a maximum height of 33.99m. This exceeds the 22m statutory maximum building height by 11.99m.

Subclause 4.3(2A)(a) of the LEP states:

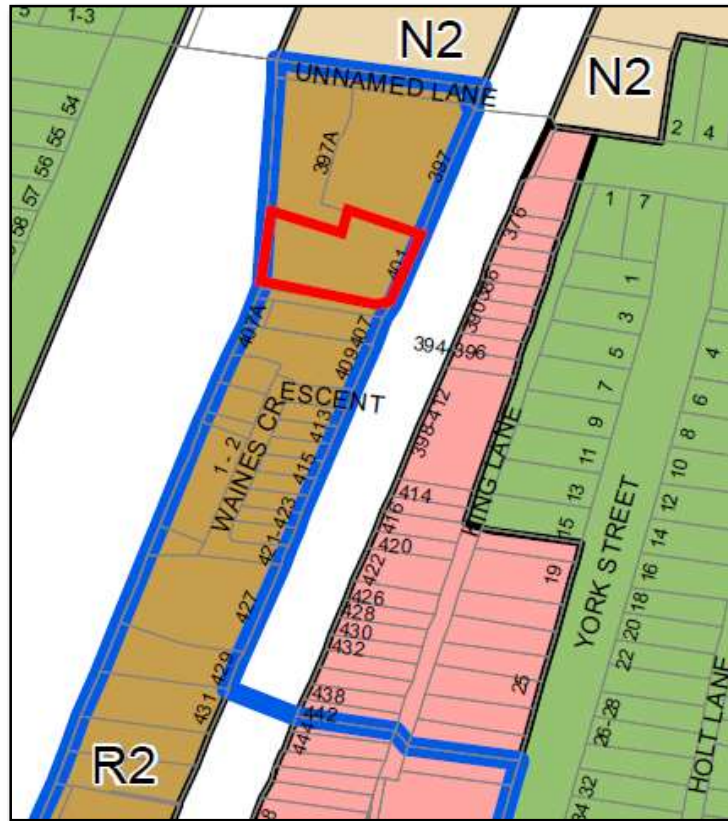
*Despite subclause (2), the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map by an additional:*

- (a) 12 metres—if the building is in Area A identified on the Height of Buildings Map and on a lot having an area of at least 1,500 square metres,*

The site is wholly located within Area A, as shown on the Height of Buildings Map. However, the site has an area of only 1306m<sup>2</sup> and therefore does not benefit from the additional 12m height allowance under subclause 4.3(2A)(a).



**Figure 1:** Extract from Rockdale LEP 2011 Height of Buildings Map showing the 22m height limit for the site (R2 = 22m)



The following definition under *Rockdale Local Environmental Plan 2011* is important in considering the proposed variation:

**building height** (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excludes communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Having regard to the above definition, the non-compliance to the height of buildings principal development standard relates to the upper four (4) storeys of the building, with the parapet closest to the Princes Highway frontage being the highest point of the building, at 33.99m above the existing ground level immediately below.

## 2.0 The Effect of Clause 4.6 Exceptions to development standards

Clause 4.6 of *Rockdale Local Environmental Plan 2011* states (in part):

- (1) *The objectives of this clause are as follows:*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386
- *Moskovich v Waverley Council* [2016] NSWLEC 1015

In summary, the principles arising from the above matters are:

- (i) That the relevant objectives are those stated in the controls not unidentified underlying objectives - at [57] in Four2Five No. 1;

- (ii) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site - at [60] in Four2Five No. 1;
- (iii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition;
- (iv) That the consent authority must be satisfied that the applicant's written 4.6 variation request has adequately addressed everything in 4.6(3), rather than the consent authority being 'directly satisfied' as to each of those matters – at [58] in *Micaul Holdings Pty Limited*.

In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

However, as a result of Four2Five, it is now necessary to demonstrate something *more* than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

### 3.0 Justification for Variation

#### *What is the context of the variation?*

In June 2015, Amendment No. 8 to *Rockdale Local Environmental Plan 2011* was gazetted. The amendments to the LEP related to the Rockdale Town Centre and (in part) rezoned certain land, altered the permitted height of buildings and floor space ratio for certain land, offered building height incentives for certain sites and introduced the requirement for an architectural design competition for certain sites.

The increased statutory controls of building height and floor space ratio under the LEP are supported by Section 7.5 of Rockdale DCP 2011. As noted in the DCP:

*A Masterplan for the future role and character of Rockdale Town Centre was developed with the community and adopted by Council.*

*This section of the DCP provides detailed building design and built form controls to complement Rockdale LEP 2011 and facilitate the implementation of the Rockdale Town Centre Masterplan vision.*

*These controls work in conjunction with the Rockdale LEP Height of Buildings Map and Design Excellence and Competition clause which establishes development standards for height and further building envelope controls within the Town Centre.*

The site at 401-405 Princes Highway is identified in the DCP as being within the Centre Edge Residential, where the anticipated built form and land use was for high density residential at the edge of the Town Centre, with active retail uses permitted on the ground floor frontage.

***Strict Compliance is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.***

The overall building height of 33.99m exceeds the 22m maximum building height by 11.99m, representing a variation of 54.5% above the numerical development standard. In numerical terms this represents a significant variation to the principal development standard. Notwithstanding, as demonstrated in the recent NSW LEC decisions in *Micaul Holdings Pty Limited v Randwick City Council* and *Moskovich v Waverley Council* there should be no artificial conservatism about the use of Clause 4.6 based on the numerical extent of the variation being sought, given that the purpose of

Clause 4.6 is to allow flexibility and to achieve better outcomes for a site by allowing developments to exceed height and/or FSR where there are justifiable circumstances.

An important finding in *Micaul Holdings Pty Limited* was that while the judgement did not directly overturn the *Four2Five v Ashfield* decision, the Chief Judge indicated that one of the obligations of a consent authority is to be satisfied that the applicant's written request has adequately addressed the matters in Clause 4.6(3), namely.....*that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case .....and that there are sufficient environmental planning grounds to justify contravening the development standard.*

In this particular instance, it is considered that compliance with the development standard is unreasonable and unnecessary and that there is sufficient environmental planning merit to justify the proposed non-compliance, as described below:

The objectives of the height of buildings principal development standard are:

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

Having regard to the first method in *Wehbe*, it is considered that the proposed development achieves the objectives of the standard to a greater degree than a development that complied with the standard for the following reasons:

The site has an area of 1306m<sup>2</sup> and therefore on its own, does not benefit from the 12m height incentive offered to sites in Area A that have an area of 1500m<sup>2</sup> or greater. However, it is understood that in making this additional height incentive available to certain sites, Council's intent was to encourage larger site amalgamations in order to achieve better architectural and urban design outcomes. As such, under a scenario whereby this site was amalgamated with the adjoining site to the immediate north, the combined area would be well in excess of 1500m<sup>2</sup> and the site would then benefit from the additional 12m height allowance. The site to the immediate north has an area in excess of 1500m<sup>2</sup> and therefore benefits from the additional height. It is understood that a development application for an 11 storey shop top housing development on the adjoining site (Nos. 395-397 Princes Highway) has previously been lodged with Council.

The subject site, together with the adjoining site to the north are somewhat unique in that they are both bounded by the Princes Highway and are 'book-ended' by Rockdale Street (to the north) and Fox Lane (to the south), forming an 'urban island' together with a third parcel of land (1108m<sup>2</sup>) that is occupied by the 2 storey Telephone Exchange building. As an important utility installation, it is unlikely that the telephone exchange site will be available for redevelopment in the foreseeable future. The western side of the 'urban island' is bounded by the Illawarra Rail Line.

Therefore, although the sites have not been amalgamated, Council's intent of realising the redevelopment of larger amalgamated sites will still be met, albeit in 2 separate built forms that address the highway frontage. In addition, it is considered that despite being 2 separate built forms, the buildings will be of a high quality design and will add to the vibrancy and vitality of the streetscape and built form character of the northern end of the Rockdale Town Centre.

Having regard to the objectives set out at Clause 4.3 of the LEP and in particular, objectives (c) & (d), despite exceeding the statutory height limit, a more appropriate transition in built form will be realised if

the proposed building has a similar height to the building on the adjoining site, that can benefit from the additional height on its own. The most logical place for a transition in height to occur is at the street (i.e Fox Lane and Rockdale Street) and given the somewhat unique circumstance of an ‘urban island’ between these two streets, it is considered that a building on the subject site that is 4 storeys lower than the adjoining site will not result in a better urban outcome. It is considered that a more desirable urban outcome will be facilitated through a comparable building height and form on both of these sites.

It is also noted that a restriction on building height will have an adverse impact on the ability of this site to attain the objects of the EP&A Act, namely the orderly and economic development of land. While the contractual arrangements between vendor and purchaser are not strictly a planning consideration, the ongoing efficacy of the telecommunications infrastructure in this location is likely to be compromised if the site cannot achieve a building height that is comparable to surrounding development. The current owners of No. 401-405 Princes Highway purchased it from Telstra Corporation, who still owns the site of the Telephone Exchange Building adjoining the north-western corner of the site. The Telephone Exchange Building is an important and integral component of the telecommunications network and currently houses a number of antennae/transmitters associated with the mobile phone infrastructure. Under the previous planning regime, these antennae/transmitters were able to operate effectively located on top of the two storey building. However, the increase in allowable building heights has now compromised the efficacy of this infrastructure. A condition of the contract of sale requires any new multi storey building on No. 401-405 to support telephone infrastructure in order to maintain the effective operation of the telecommunications network. Unless a building height can be achieved to support the effective operation of the telecommunications infrastructure, a condition of the contract of sale restricts any redevelopment on the site to 4 storeys, in order to ensure the ongoing efficacy of the telecommunications infrastructure. As such, such a restriction would severely inhibit the ability to achieve the orderly and economic development of the land in line with the applicable planning regime.

In light of the above, the requirement to strictly adhere to the numerical development standard for building height is considered to be unreasonable and unnecessary in this instance.

Further, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- Despite the upper four (4) storeys on the eastern side of the building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of the streetscape character and built form and the relationship of the building to the adjoining (anticipated) development;
- The most logical place for a transition in built form and scale is at the street block edge (Fox Lane), rather than mid-block; and
- Despite an increased height, the proposed development will not have an unreasonable impact on adjoining sites in terms of overshadowing or visual or aural privacy.
- The increase in allowable building heights under the recent LEP amendment has compromised the efficacy of the telecommunications infrastructure on the adjoining Telephone Exchange building. In order to ensure the ongoing efficacy of the telecommunications infrastructure, the infrastructure needs to be raised above its current height. Unless a building height can be achieved to support the effective operation of the telecommunications infrastructure, a condition of the contract of sale for the site restricts any redevelopment on the site to 4 storeys. As such, such a restriction would severely inhibit the ability to achieve the orderly and economic development of the land in line with the applicable planning regime.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.***

The Table below demonstrates that the proposed development will be in the public interest because it will be consistent with both the height of buildings principal development standard objectives and the B4 Mixed Use zone objectives of the LEP.

LEP Clause	Objective	Proposal
<b>Clause 4.3</b>  <b>Height of Buildings</b>	<i>a) To establish the maximum limit within which buildings can be designed and floor space can be achieved.</i>	<p>Despite the non-compliance, the scale and form of the building is consistent with the intended redevelopment potential of the land.</p>
	<i>b) To permit building heights that encourage high quality urban form.</i>	<p>The proposed building represents a high quality urban form and has been designed to achieve 'design excellence'. The architectural detailing and proposed materials and finishes will realise a building of distinction that will make a significant contribution to the quality of the urban streetscape character and appearance. Further, the internal amenity for residents will be of a high standard, with the levels of solar access and natural ventilation exceeding the design criteria under the ADG.</p> <p>The increased setback to Fox Lane allows for a wider deep soil area (similar to across the highway frontage) and will significantly improve the appearance and amenity of Fox Lane.</p> <p>The generously proportioned and landscaped communal open space areas will provide a useable and desirable outdoor recreation space for residents, while landscaping of the communal areas and at the level 4 podium will add to and soften the built form.</p> <p>Despite the non-compliance, the height and form of the building is consistent with the desired future character of the locality.</p>
	<i>c) To provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain.</i>	<p>The proposed building height will not cause unacceptable overshadowing or a loss of sky exposure to the adjoining properties or surrounding public domain. If the 2 adjacent sites were to be amalgamated and redeveloped together, there is the potential that sky exposure would be reduced and an expansive built form in excess of 80m in length would potentially extend across the Princes Highway frontage, in order to maximise a north-easterly aspect. Accordingly, it is considered that the redevelopment of these sites individually will realise a better urban outcome.</p>
	<i>d) To nominate heights that will provide an appropriate transition in built form and land use intensity.</i>	<p>The 34m building height limit available to larger sites within Area A is considered to be an appropriate height in terms of the desired built form anticipated along the Princes Highway frontage within the</p>

		Rockdale Town Centre. A transition in height between Fox Lane and the more 'fine grain' properties to the south will realise a better urban outcome.
<b>B4 Mixed Use</b>  <b>Zoning Objectives</b>	<i>To provide a mixture of compatible land uses.</i>	The commercial/retail tenancies will provide for additional retail shops / businesses etc that will serve the needs of the community and potentially provide employment opportunities. The residential apartments will provide additional housing stock and choice for Rockdale.
	<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	As above, the commercial/retail tenancies have the potential to provide employment opportunities at the northern end of the Rockdale Town Centre and the residential apartments will provide additional housing stock in proximity to public transport options, as well as local shops and services. The sites proximity to the shops and services in the Rockdale Town Centre, Railway Stations and bus stops will encourage public transport patronage, walking and cycling.

#### 4.0 Director General's Concurrence

Clause 4.6(4)(b) requires the concurrence of the Director-General to be obtained prior to granting consent to a development that contravenes a development standard. However, as advised in Planning Circular PS 08-003, the Director-General's concurrence can be assumed in respect of any environmental planning instrument that adopts Clause 4.6 of the Standard Template LEP.

Accordingly, as *Rockdale Local Environmental Plan 2011* adopts Clause 4.6 of the Standard Template LEP concurrence can be assumed in this instance.

Notwithstanding, provided below is a discussion on the matters under subclause 4.6(5) that the Director-General must consider in deciding whether to grant concurrence:

***Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.***

The variation to the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside the immediate area of the site.

***The public benefit of maintaining the development standard.***

No substantive public benefit would be realised by maintaining the development standard. Reducing the height of the building to strictly comply with the 22m height limit would not alter the overall design approach or outcome for the site and would not realise an improvement to the relationship between the site, the adjoining buildings and the surrounding area. The building, as proposed, provides a distinct 'base', 'middle' and 'top' consistent with the

Further, it is considered that there would not be a visual improvement to the streetscape in the circumstances where the building height would be capped at 22m, when the likely built form outcome will be for a taller building (up to 34m) on the adjoining site to the north, contrary to the intended transition in height towards the Rockdale Town Centre.

***Any other matters required to be taken into consideration by the Director-General before granting concurrence.***

Despite exceeding the statutory maximum building height, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a shop top housing development that will positively contribute to the achievement of the vision and strategic objectives of the Draft South Subregional Strategy and *Rockdale Local Environmental Plan 2011*.

## **5.0 Conclusion**

Based on the discussion provided above, it can be concluded that:

- strict compliance with the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* is unreasonable or unnecessary in the circumstances of the case, where the proposed building height could otherwise have been achieved in a development scheme that involved amalgamation of the adjoining site to the north, such that the additional 12m height incentive available under subclause 4.3(2A)(a) of the LEP would have realised an allowable building height of 34m across both sites;
- despite the non-compliance to the height standard, the proposed development is consistent with the objectives of both the height of buildings development standard and the B4 Mixed Use zone;
- the proposed design solution is considered to represent an appropriate development outcome for the site, displaying a design of high quality and appearance, whilst ensuring that a high standard of amenity for future residents will be achieved;
- there are sufficient environmental planning grounds having regard to the Court matters *Four2Five v Ashfield Council* and *Wehbe v Pittwater Council* to justify the contravention to the development standard as the building has been designed to a high quality and the amenity for future residents will be to a high standard;
- the non-compliance does not directly result in any adverse environmental impacts in terms of the building being out of context with the anticipated bulk and scale of development in the locality;
- the proposal will provide a high quality shop top housing development that is in keeping with the desired future character of the area; and
- the scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Having regard to the circumstances of this case where:

- the overall style, scale and built form of the building will be commensurate with the likely future 'built environment' and desired character of the area;
- the non-compliant height will have negligible impact on the streetscape appearance and character of the locality having regard to the similar height of the proposed development on the adjoining site to the north, for which a development application is understood to have been lodged;
- the proposal is generally consistent with the aims and objectives of *Rockdale Local Environmental Plan 2011*; and
- the proposal is generally consistent with the objects of the *Environmental Planning &*



*Assessment Act 1979*, in particular, the orderly and economic use and development of land and ecologically sustainable development,

it is submitted that this Clause 4.6 Exceptions to Development Standards request is well founded. As such, strict compliance with the height of buildings principal development standard prescribed in Clause 4.3 of *Rockdale Local Environmental Plan 2011* is unreasonable and unnecessary having regard to the circumstances of the case. Accordingly, having regard to the assessment contained in this Clause 4.6 Exceptions to Development Standards submission, it is requested that Council support the proposed variation and the development in its proposed form.

Dated: 2 June 2016

**Andrew Robinson Planning Services Pty Ltd**

A handwritten signature in black ink, appearing to read 'A Robinson', with a long horizontal flourish extending to the right.

Andrew Robinson MP/IA CPP  
Director

**PLAN FORM 2**

SIGNATURE AND SEALS ONLY.

I CERTIFY THAT TERRANCE JOHN LAYTON, WITH WHOM I AM PERSONALLY ACQUAINTED, AND TO WHOSE IDENTITY I AM OTHERWISE SATISFIED, SIGNED THIS DOCUMENT IN MY PRESENCE AS ATTORNEY UNDER POWER OF ATTORNEY DETERMINED BY BOOK 4454 NO. 824.

*Terrance John Layton*  
TERRANCE JOHN LAYTON

*Lisa Marie Kallawa*  
LISA MARIE KALLAWA  
NAME OF SURVEYOR  
225 GERRIE STREET, SYDNEY  
REGISTERED SURVEYOR

BY EXECUTING THIS DOCUMENT THE APPLICANT STATES THAT THE ATTORNEY HAS RECEIVED NO NOTICE OF REVOCATION OF THE POWER OF ATTORNEY.

**CONSENT OF STATE RAIL AUTHORITY FURNISHED**

Department of Lands Approval

(Authorised Officer) In approving this plan, I certify that all necessary approvals in regard to the location of the land shown herein have been given.

**Subdivision Certificate**  
I hereby certify that the provisions of 1188A of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed subdivision.  
Date of endorsement: 09 MAY 2006  
Rockdale City Council  
Consent Authority: ROCKDALE CITY COUNCIL  
Subdivision Certificate no.: SC 2006/154  
From the no.: 2A 2006/153  
I declare that this plan is to be lodged electronically in Land and Property Information System and that the signature is an electronic or digital signature.  
I declare that this plan is to be lodged electronically in Land and Property Information System and that the signature is an electronic or digital signature.

(X) BARRIERS BY EASEMENT FOR ACCESS AND DRAINAGE - 6572967

Plan Drawing only to appear in this space

ROCKDALE STREET



WARNING: GREASING OR FOLDING WILL LEAD TO REJECTION

Registered DP1097898	Title System: TORRENS SUBDIVISIONS 69	Ref. Map: UO937-512# 03 DP44503 & DP447152 DP570950	Plan of Subdivision of Lot 1 DP44503 Lot 1 DP447152 & Lot 1 DP570950	L G A ROCKDALE Locality: ROCKDALE Parish: ST GEORGE County: CUMBERLAND	This is Sheet 1 of any plan in sheets. (Delete if inapplicable)
<p>1. RICHARD McCLEHARRAN of BRUNSKILL McCLEHARRAN &amp; ASSOC SUITE 22, 1-3 HAVILLAM ST, CHATSWOOD a surveyor registered under the Survey Act 2002, hereby certify that the information contained in this plan is correct, has been made by or under the supervision of the surveyor, and that the survey was completed on 10 MAY 2005. The survey relates to: LOTS 100, &amp; 101 (here specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey) (Survey registered under the Survey Act 2002) Plan No: 2005/154 Date: 30 3 06 Date of Issue: 09 05 06</p>					
<p>Forms used in preparation of survey/compilation: DP 66844 DP 66944 DP 16948 DP 223282 DP 445036 DP 447152 DP 570950</p>					
<p>PANEL FOR USE ONLY for statements of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants, restrictions on the use of land or positive covenants, PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919, IT IS INTENDED TO CREATE: 1. EASEMENT FOR TELECOMMUNICATIONS 2. EASEMENT FOR ACCESS AND DRAINAGE 3. EASEMENT FOR SERVICES AND DRAINAGE OF WATER 7.5 WIDE LIMITED IN HEIGHT 4. RIGHT OF ACCESS AND EASEMENT FOR IN HEIGHT 5. RIGHT OF FOOTWAY 0.9 WIDE LIMITED IN HEIGHT 6. RESTRICTION ON THE USE OF LAND IT IS INTENDED TO DEDICATE THE ROAD WIDENING LANE TO THE PUBLIC AS ROAD SUBJECT TO AN EASEMENT FOR DRAINAGE 1.83 WIDE (VIDE BR2455 NO.803)</p>					

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 1 of 6 sheets

**DP1097898**

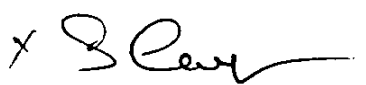
PLAN OF SUBDIVISION OF LOT 1 DP 445036, LOT 1 DP447152 AND LOT 1 DP570950  
Covered by Subdivision certificate No ~~SC2006544~~ of 09-05-06

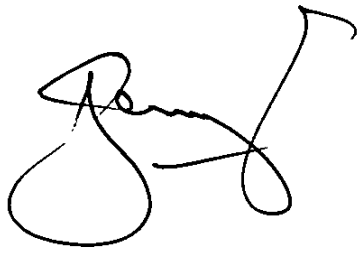
Full name and address of the owner of the land

**TELSTRA CORPORATION LIMITED**  
(ACN 051 775 556)  
3/201 Sussex Street  
Sydney NSW 2000

**PART 1 (Creation)**

Number of item shown in the intention panel on the Plan	Identity of Easement to be created and referred to in the plan	Burdened Lots	Lots and or Authority Benefited
1	Easement for Telecommunications Purposes 7.5 wide Limited in Height	100	Telstra Corporation Limited
2	Easement for Services and Drainage of Water 7.5 wide Limited in Height	100	101
3	Right of Access and Easement for Parking 6.2 wide Part Limited in Height	100	101
4	Right of Footway 0.9 wide Limited in Height	100	Rockdale City Council
5	Restriction on the Use of Land	100	101 and, Telstra Corporation Limited

x 



**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON  
THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 2 of 6 sheets

Plan:

PLAN OF SUBDIVISION OF LOT 1 DP  
445036, LOT 1 DP447152 AND LOT 1  
DP570950

**DP1097898**

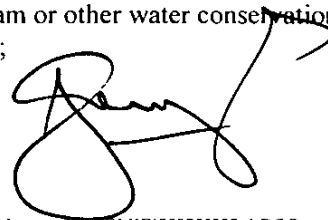
Covered by Subdivision certificate  
No ~~SC2006/54~~ of 09-06-06

**PART 2 (Terms)**

**1. Terms of Easement for Telecommunications Purposes 7.5 wide Limited in  
Height numbered 1 in the plan.**

- 1.1 The Authority Benefited, its officers, servants, workmen, contractors and agents have the right to enter the Lot burdened with or without vehicles or machinery and construct, lay down, erect, replace, repair, renew, clean, maintain and remove underground telecommunication and electricity cables (which are collectively termed *the cable* in this easement) and cable ducts, cable chambers, tunnels, culverts, bridges, cable joints, permanent marker posts, manholes, cable pits and other apparatus (which are collectively termed "the works" in this easement) for the transmission of telephone, television, radio and control signals and currents and electric current and for other incidental purposes under, over through and beneath the surface of the Lot Burdened at such heights or depths as it thinks proper.
- 1.2 In order to carry out the rights referred to in 1.1, the Authority Benefited, its offices, servants, workmen, contractors and agents may bring and place on the Lot Burdened and remove from the Lot Burdened all materials, apparatus, instruments, machinery, tools, implements, appliances, and articles and may do and perform all such other incidental acts and things as maybe reasonably necessary or required.
- 1.3 The Authority Benefited may exercise and perform in and upon the Lot Burdened any of the rights, powers and authorities conferred on or vested in the Authority by the Telecommunications Act 1997 as amended.
- 1.4 The proprietor of the Lot Burdened covenants with the Authority Benefited that **without the written approval of the Authority Benefited** the proprietor of the Lot Burdened will not, within the area of the easement, himself nor will he permit or suffer any other person or corporation to:
- (a) do any act deed matter or thing which may injure or damage the cable and the works or may prevent or hamper the exercise by the Authority Benefited of its rights under this easement;
  - (b) erect any building or other structure of any kind or description or construct any roadway, driveway, footpath or railway in, upon or above the Lot Burdened;
  - (c) construct or build or form any dam or other water conservation feature in, upon or above the Lot Burdened;

x 



**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON  
THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 3 of 6 sheets

DP1097898

**DP1097898**

PLAN OF SUBDIVISION OF LOT 1 DP  
445036, LOT 1 DP447152 AND LOT 1  
DP570950

Covered by Subdivision certificate  
No ~~SC2006/54~~ of 09-05-06

- (d) erect or sink or lay down any posts or poles, water pipes, drains, gas pipes or other service leads of whatsoever kind in or on the Lot Burdened;
- (e) alter in any way whatsoever the existing level of the surface of the Lot Burdened;
- (f) construct or build or form any drain, ditch, channel, canal, erosion control measure or other water controlling or containing feature of whatsoever kind on the Lot Burdened;
- (g) erect or construct any fence on the Lot Burdened other than in the renewal or maintenance of an existing fence without providing at his own expense a gate for access by the Authority Benefited to the cable and works. Where fencing is renewed or maintained, gates as existing within the Lot Burdened are to be re-erected and all posts re-located on their former sites.

1.5 The easement is limited in height to RL 19 metres on Australian Height Datum and is unlimited in depth.

**AND** the proprietor of the Lot Burdened further covenants with the Authority Benefited that where reasonably possible in any future plan of subdivision affecting the Lot burdened the proprietor of the Lot Burdened shall not provide for the cable and the works to be situated any where but underneath footpaths or roads.

**2. Terms Of Easement for Services and Drainage of Water 7.5 wide Limited in Height numbered 2 in the plan**

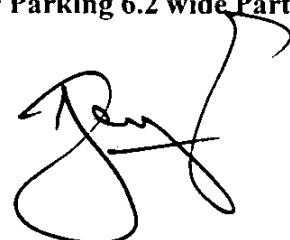
2.1 Terms as set out in Part 11 and Part 8 of Schedule 8 of the Conveyancing Act 1919

**AND**

2.2 The easement is limited in height to RL 19 metres on Australian Height Datum and is unlimited in depth.

**3. Terms Of Right Of Access And Easement For Parking 6.2 wide Part limited in Height numbered 3 in the plan**

X 



**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 4 of 6 sheets

Plan:

PLAN OF SUBDIVISION OF LOT 1 DP 445036, LOT 1 DP447152 AND LOT 1 DP570950

Covered by Subdivision certificate No ~~SC2006/54~~ of 09-05-06

**DP1097898**

3.1 Terms as set out in Part 14 of Schedule 8 of the Conveyancing Act 1919 **AND**

3.2 The owner of the lot benefited may:

- a) Park vehicles or equipment on the lot burdened, but only within the site of this easement, for any period of time
- b) Erect any traffic control devices within the site of this easement
- c) Take anything onto the lot burdened and carry out any work within the site of this easement for the purpose of constructing, placing, repairing or maintaining traffic control devices

In exercising those powers, the owner of the lot benefited must:

- a) ensure that all work is done properly, and
- b) cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened, and
- c) cause as little damage as is practicable to the lot burdened and any improvement on it, and
- d) make good any collateral damage.

3.3 The easement is unlimited in height in part and limited in height in part to RL 19 metres on Australian Height Datum and is unlimited in depth.

**4. Right of Footway 0.9 wide Limited in height numbered 4 in the plan**

4.1 Terms as set out in Part 2 of Schedule 8 of the Conveyancing Act 1919

**AND**

4.2 The easement is limited in height to RL 19 metres on Australian Height Datum and is unlimited in depth.

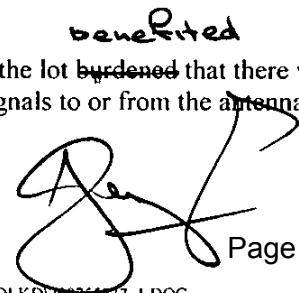
**5. Terms Of Restriction On The Use Of Land numbered 5 on the plan**

Any building or construction over 2 stories in height on the burdened lot will require approval of the owner of the lot ~~burdened~~ benefited

Such approval will not be withheld if:

- 1) it can be shown to the satisfaction of the owner of the lot ~~burdened~~ benefited that there will be no adverse impact on the telecommunication signals to or from the antennas erected on the benefited lot OR

x 

~~burdened~~ benefited  
  
Page 73

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON  
THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 5 of 6 sheets

Plan:

**DP1097898**

PLAN OF SUBDIVISION OF LOT 1 DP  
445036, LOT 1 DP447152 AND LOT 1  
DP570950

Covered by Subdivision certificate  
No SC2006/54 of 09-05-06

- 2) if alternate arrangements can be made to the siting of the aerials such that the signal will not be interrupted or the signal condition will be maintained with no reduction in strength or coverage.

**NAME OF AUTHORITY OR PERSONS EMPOWERED TO RELEASE, VARY OR  
MODIFY THE EASEMENTS NUMBERED 1 AND 5 IN THE PLAN.**

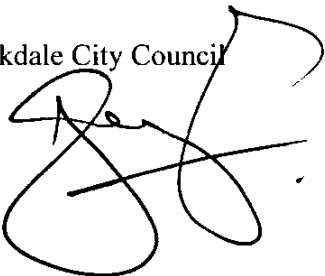
Telstra Corporation Limited

**NAME OF AUTHORITY OR PERSONS EMPOWERED TO RELEASE, VARY OR  
MODIFY THE EASEMENTS NUMBERED 2 AND 3 IN THE PLAN.**

The Registered proprietors of the burdened and benefited lots

**NAME OF AUTHORITY OR PERSONS EMPOWERED TO RELEASE, VARY OR  
MODIFY THE EASEMENT NUMBERED 4 IN THE PLAN.**

Rockdale City Council



x 

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

Lengths are in metres

Sheet 6 of 6 sheets

Plan:

PLAN OF SUBDIVISION OF LOT 1 DP 445036, LOT 1 DP447152 AND LOT 1 DP570950  
Covered by Subdivision certificate No SC2006/54 of 09-05-06

**DP1097898**

I certify that **TERRANCE JOHN LAYTON** with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this document in my presence as attorney for **TELSTRA CORPORATION LIMITED** under Power of Attorney registered book **4457** No **829**

*[Handwritten signature]*  
Signature of witness

x *[Handwritten signature]*  
Signature of attorney

LISA MARIE KALCINA  
Name of witness (block letters)

Attorney's Names: **TERRANCE JOHN LAYTON**

225 GEORGE STREET, SYDNEY  
Address of witness (block letters)

Signing on behalf of Telstra Corporation Limited

By executing this document the attorney states that the attorney has received no notice of revocation of the power of attorney

**REGISTERED**  *[Handwritten initials]* 15.6.2006.  
Page 75





Unit 2, 182 Old Canterbury Road  
Summer Hill, NSW, 2130  
Ph: 02 9798 0953  
Fax: 02 9797 7696  
andrew\_arps@bigpond.com



## **Amended Clause 4.6 Exceptions to Development Standards Clause 4.3 Height of Buildings - Rockdale Local Environmental Plan 2011**

### **Proposed Construction of a Seven (7) Storey Shop Top Housing Development - Nos. 401-405 Princes Highway, Rockdale**

#### **1.0 Introduction**

This amended Clause 4.6 Exceptions to Development Standards request has been prepared by Andrew Robinson Planning Services Pty Ltd on behalf of Hellublott Pty Ltd to accompany a development application for a proposed shop top housing development at Nos. 401-405 Princes Highway, Rockdale.

The Clause 4.6 Exceptions to Development Standards request relates to the height of buildings principal development standard prescribed under subclause 4.3(2) of *Rockdale Local Environmental Plan 2011*. Subclause 4.3(2) states:

*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map indicates a maximum building height of 22m applies to the site (refer to **Figure 1**).

When measured in accordance with the definition for building height under the LEP, the proposed development has a maximum height of 26.36m. This exceeds the 22m statutory maximum building height by 4.36m.

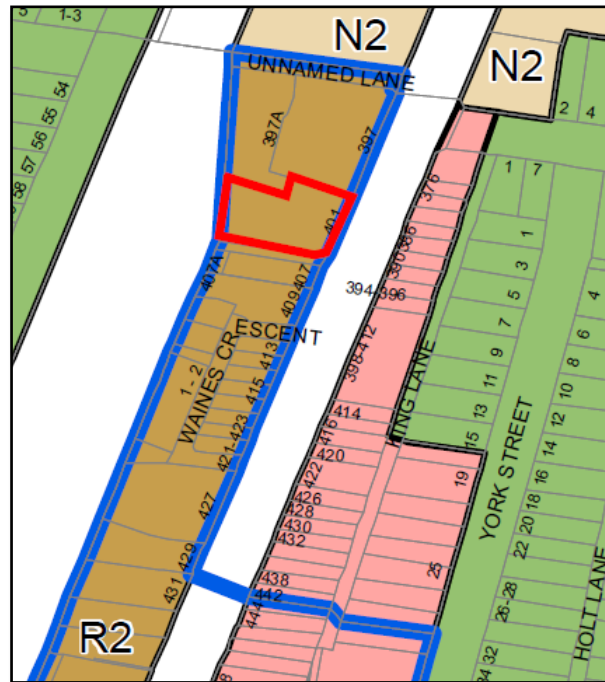
Subclause 4.3(2A)(a) of the LEP states:

*Despite subclause (2), the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map by an additional:*

- (a) 12 metres—if the building is in Area A identified on the Height of Buildings Map and on a lot having an area of at least 1,500 square metres,*

The site is wholly located within Area A, as shown on the Height of Buildings Map. However, the site has an area of only 1306m<sup>2</sup> and therefore does not benefit from the additional 12m height allowance under subclause 4.3(2A)(a).

**Figure 1:** Extract from Rockdale LEP 2011 Height of Buildings Map showing the 22m height limit for the site (R2 = 22m)



The following definition under *Rockdale Local Environmental Plan 2011* is important in considering the proposed variation:

**building height** (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excludes communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Having regard to the above definition, as indicated in **Figure 2** below, the non-compliance to the height of buildings principal development standard relates to the two lift overruns and roof top communal open space, with the lift overrun closest to the Princes Highway frontage being the highest point of the building, at 26.36m above the existing ground level immediately below.

**Figure 2:** Extract from architectural drawing showing the maximum extent of the non-compliance with the 22m height development standard



Notwithstanding the above, with the exception of a portion of the roof top parapet wall, that would be visible from street level and exceeds the height limit by up to 840mm, the remainder of the building is below the 22m statutory height limit. As such, this minor breach does not read as an additional storey and provides an appropriate top to the building, consistent with the design guidance for roof design set out in the ADG. The communal open space is set back from the edge of the building behind planter boxes and glass balustrade and will not be readily visible, thereby adding minimal bulk to the scale and appearance of the building.

## **2.0 The Effect of Clause 4.6 Exceptions to Development Standards**

Clause 4.6 of *Rockdale Local Environmental Plan 2011* states (in part):

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386
- *Moskovich v Waverley Council* [2016] NSWLEC 1015

In summary, the principles arising from the above matters are:

- (i) That the relevant objectives are those stated in the controls not unidentified underlying objectives - at [57] in Four2Five No. 1;
- (ii) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site - at [60] in Four2Five No. 1;
- (iii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition;
- (iv) That the consent authority must be satisfied that the applicant's written 4.6 variation request has adequately addressed everything in 4.6(3), rather than the consent authority being 'directly satisfied' as to each of those matters – at [58] in *Micaul Holdings Pty Limited*.

In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

However, as a result of Four2Five, it is now necessary to demonstrate something *more* than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

### **3.0 Justification for Variation**

#### ***What is the context of the variation?***

In June 2015, Amendment No. 8 to *Rockdale Local Environmental Plan 2011* was gazetted. The amendments to the LEP related to the Rockdale Town Centre and (in part) rezoned certain land, altered the permitted height of buildings and floor space ratio for certain land, offered building height incentives for certain sites and introduced the requirement for an architectural design competition for certain sites.

The increased statutory controls for building height and floor space ratio under the LEP are supported by Section 7.5 of Rockdale DCP 2011. As noted in the DCP:

*A Masterplan for the future role and character of Rockdale Town Centre was developed with the community and adopted by Council.*

*This section of the DCP provides detailed building design and built form controls to complement Rockdale LEP 2011 and facilitate the implementation of the Rockdale Town Centre Masterplan vision.*

*These controls work in conjunction with the Rockdale LEP Height of Buildings Map and Design Excellence and Competition clause which establishes development standards for height and further building envelope controls within the Town Centre.*

The site at 401-405 Princes Highway is identified in the DCP as being within the Centre Edge Residential, where the anticipated built form and land use was for high density residential at the edge of the Town Centre, with active retail uses permitted on the ground floor frontage.

***Strict Compliance is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.***

The overall maximum building height of 26.36m exceeds the 22m maximum building height by 4.36m, representing a variation of 19.8% above the numerical development standard. In numerical terms this represents a significant variation to the principal development standard. Notwithstanding, as demonstrated in the recent NSW LEC decisions in *Micaul Holdings Pty Limited v Randwick City Council* and *Moskovich v Waverley Council* there should be no artificial conservatism about the use of Clause 4.6 based on the numerical extent of the variation being sought, given that the purpose of Clause 4.6 is to allow flexibility and to achieve better outcomes for a site by allowing developments to exceed height and/or FSR where there are justifiable circumstances.

An important finding in *Micaul Holdings Pty Limited* was that while the judgement did not directly overturn the *Four2Five v Ashfield* decision, the Chief Judge indicated that one of the obligations of a consent authority is to be satisfied that the applicant's written request has adequately addressed the matters in Clause 4.6(3), namely.....*that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case .....and that there are sufficient environmental planning grounds to justify contravening the development standard.*

In this particular instance, it is considered that compliance with the development standard is unreasonable and unnecessary and that there is sufficient environmental planning merit to justify the proposed non-compliance, as described below:

The objectives of the height of buildings principal development standard are:

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

Having regard to the first method in *Wehbe*, it is considered that the proposed development achieves the objectives of the standard to a greater degree than a development that complied with the standard for the following reasons:

The site has an area of 1306m<sup>2</sup> and therefore on its own, does not benefit from the 12m height incentive offered to sites in Area A that have an area of 1500m<sup>2</sup> or greater. However, it is understood that in making this additional height incentive available to certain sites, Council's intent was to encourage larger site amalgamations in order to achieve better architectural and urban design outcomes. As such, under a scenario whereby this site was amalgamated with the adjoining site to the immediate north, the combined area would be well in excess of 1500m<sup>2</sup> and the site would then

benefit from the additional 12m height allowance. The site to the immediate north has an area in excess of 1500m<sup>2</sup> and therefore benefits from the additional height. A Development Application for an 11 storey shop top housing development on the adjoining site (Nos. 395-397 Princes Highway) has been approved and construction of this building has commenced.

The subject site, together with the adjoining site to the north are somewhat unique in that they are both bounded by the Princes Highway and are 'book-ended' by Rockdale Street (to the north) and Fox Lane (to the south), forming an 'urban island' together with a third parcel of land (1108m<sup>2</sup>) that is occupied by the 2 storey Telephone Exchange building. As an important utility installation, it is unlikely that the telephone exchange site will be available for redevelopment in the foreseeable future. The western side of the 'urban island' is bounded by the Illawarra Rail Line.

Therefore, although the sites have not been amalgamated, Council's intent of realising the redevelopment of larger amalgamated sites will still be met, albeit in 2 separate built forms that address the highway frontage. In addition, it is considered that despite being 2 separate built forms, the buildings will be of a high quality design and will add to the vibrancy and vitality of the streetscape and built form character of the northern end of the Rockdale Town Centre.

Having regard to the objectives set out at Clause 4.3 of the LEP and in particular, objectives (c) & (d), despite exceeding the statutory height limit, a more appropriate transition in built form will be realised if the proposed building has a height that is less than that of the building on the adjoining site to the north, but slightly higher than a 22m high building likely to be realised on the adjoining site to the south. As depicted in the extract from the Streetscape Elevation in **Figure 3** below, the provision of a 'graded' transition in height at this location will achieve a more desirable urban outcome.

**Figure 3:** Extract from Street Elevation showing the 'graded' height transition



Source: A&BW

It is also noted that a restriction on building height will have an adverse impact on the ability of this site to attain the objects of the EP&A Act, namely the orderly and economic development of land. While the contractual arrangements between vendor and purchaser are not strictly a planning consideration, the ongoing efficacy of the telecommunications infrastructure in this location is likely to be compromised if the site cannot achieve a building height that is comparable to surrounding development. The current owners of No. 401-405 Princes Highway purchased it from Telstra Corporation, who still owns the site of the Telephone Exchange Building adjoining the north-western corner of the site. The Telephone Exchange Building is an important and integral component of the telecommunications network and currently houses a number of antennae/transmitters associated with the mobile phone infrastructure. Under the previous planning regime, these antennae/transmitters

were able to operate effectively located on top of the two storey building. However, the increase in allowable building heights has now compromised the efficacy of this infrastructure. A condition of the contract of sale requires any new multi storey building on No. 401-405 to support telephone infrastructure in order to maintain the effective operation of the telecommunications network. Unless a building height can be achieved to support the effective operation of the telecommunications infrastructure, a condition of the contract of sale restricts any redevelopment on the site to 4 storeys, in order to ensure the ongoing efficacy of the telecommunications infrastructure. As such, such a restriction would severely inhibit the ability to achieve the orderly and economic development of the land in line with the applicable planning regime.

In light of the above, the requirement to strictly adhere to the numerical development standard for building height is considered to be unreasonable and unnecessary in this instance.

Further, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- Despite the lift overruns and roof top communal open space of the building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of the streetscape character and built form and the relationship of the building to the adjoining (anticipated) development;
- The roof top communal open space will not be readily visible from ground level and will not appear as an additional storey. The parapet/planter box across the Princes Highway frontage of the roof level provides an appropriate top to the building, consistent with the ADG design guidance.
- The provision of communal open space accessible by lift on the roof top level is considered to be a positive planning outcome that will benefit residents and their visitors through the provision of a usable area of communal open space that will benefit from high levels of solar access, which combined with the landscaped setting, will achieve a high level of amenity for users of this communal area;
- Despite an increased height above 22m, the proposed development will not have an unreasonable impact on adjoining sites in terms of overshadowing or visual or aural privacy; and
- The increase in allowable building heights under the recent LEP amendment has compromised the efficacy of the telecommunications infrastructure on the adjoining Telephone Exchange building. In order to ensure the ongoing efficacy of the telecommunications infrastructure, the infrastructure needs to be raised above its current height. Unless a building height can be achieved to support the effective operation of the telecommunications infrastructure, a condition of the contract of sale for the site restricts any redevelopment on the site to 4 storeys. As such, such a restriction would severely inhibit the ability to achieve the orderly and economic development of the land in line with the applicable planning regime.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.***

The Table below demonstrates that the proposed development will be in the public interest because it will be consistent with both the height of buildings principal development standard objectives and the B4 Mixed Use zone objectives of the LEP.

LEP Clause	Objective	Proposal
<p><b>Clause 4.3</b></p> <p><b>Height of Buildings</b></p>	<p>a) <i>To establish the maximum limit within which buildings can be designed and floor space can be achieved.</i></p>	<p>Despite the non-compliance, the scale and form of the building is consistent with the intended redevelopment potential of the land.</p>
	<p>b) <i>To permit building heights that encourage high quality urban form.</i></p>	<p>The proposed building represents a high quality urban form and has been designed to achieve 'design excellence'. The architectural detailing and proposed materials and finishes will realise a building of distinction that will make a significant contribution to the quality of the urban streetscape character and appearance. Further, the internal amenity for residents will be of a high standard, with the levels of solar access and natural ventilation exceeding the design criteria under the ADG.</p> <p>The increased setback to Fox Lane allows for a wider deep soil area (similar to across the highway frontage) and will significantly improve the appearance and amenity of Fox Lane.</p> <p>The generously proportioned and landscaped communal open space area provided on the roof top will provide a useable and desirable outdoor recreation space for residents, while landscaping will add to and soften the built form.</p> <p>Despite the non-compliance, the height and form of the building is consistent with the desired future character of the locality.</p>
	<p>c) <i>To provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain.</i></p>	<p>The proposed building height will not cause unacceptable overshadowing or a loss of sky exposure to the adjoining properties or surrounding public domain. If this site and the adjacent site (Nos. 395-397) were to be amalgamated and redeveloped together (thereby allowing for the additional 12m building height incentive to be utilised on Nos. 401-405), there is the potential that sky exposure would be reduced and an expansive built form in excess of 80m in length would potentially extend across the Princes Highway frontage, in order to maximise a north-easterly aspect. Accordingly, it is considered that the redevelopment of these sites individually will realise a better urban outcome.</p>
	<p>d) <i>To nominate heights that will provide an appropriate transition in built form and land use intensity.</i></p>	<p>Despite slightly exceeding the 22m building height limit it is considered that an appropriate transition in height will achieve the desired built form anticipated along the Princes Highway frontage within the Rockdale Town Centre and a 'graded' transition in height between the sites at Nos. 395-397 &amp; 401-405 and the more 'fine grain' properties to the south will realise a better urban outcome.</p>



<b>B4 Mixed Use</b>  <b>Zoning Objectives</b>	<i>To provide a mixture of compatible land uses.</i>	The commercial/retail tenancies will provide for additional retail shops / businesses etc that will serve the needs of the community and potentially provide employment opportunities. The residential apartments will provide additional housing stock and choice for Rockdale.
	<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	As above, the commercial/retail tenancies have the potential to provide employment opportunities at the northern end of the Rockdale Town Centre and the residential apartments will provide additional housing stock in proximity to public transport options, as well as local shops and services. The sites proximity to the shops and services in the Rockdale Town Centre, Railway Stations and bus stops will encourage public transport patronage, walking and cycling.

#### 4.0 Director General's Concurrence

Clause 4.6(4)(b) requires the concurrence of the Director-General to be obtained prior to granting consent to a development that contravenes a development standard. However, as advised in Planning Circular PS 08-003, the Director-General's concurrence can be assumed in respect of any environmental planning instrument that adopts Clause 4.6 of the Standard Template LEP.

Accordingly, as *Rockdale Local Environmental Plan 2011* adopts Clause 4.6 of the Standard Template LEP concurrence can be assumed in this instance.

Notwithstanding, provided below is a discussion on the matters under subclause 4.6(5) that the Director-General must consider in deciding whether to grant concurrence:

#### ***Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.***

The variation to the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside the immediate area of the site.

#### ***The public benefit of maintaining the development standard.***

No substantive public benefit would be realised by maintaining the development standard. Reducing the height of the building to strictly comply with the 22m height limit would not alter the overall design approach or outcome for the site and would not realise an improvement to the relationship between the site, the adjoining buildings and the surrounding area. The building, as proposed, provides a distinct 'base', 'middle' and 'top' consistent with the ADG requirements.

Further, it is considered that there would not be a visual improvement to the streetscape in the circumstances where the building height would be capped at 22m, when the built form outcome will be for a taller building (up to 34m) on the adjoining site to the north, contrary to the intended transition in height towards the Rockdale Town Centre.

---

***Any other matters required to be taken into consideration by the Director-General before granting concurrence.***

Despite exceeding the statutory maximum building height, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a shop top housing development that will positively contribute to the achievement of the vision and strategic objectives of the Draft Eastern City District Plan and *Rockdale Local Environmental Plan 2011*.

## **5.0 Conclusion**

Based on the discussion provided above, it can be concluded that:

- strict compliance with the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* is unreasonable or unnecessary in the circumstances of the case, where a higher building height could otherwise have been achieved in a development scheme that involved amalgamation of the adjoining site to the north, such that the additional 12m height incentive available under subclause 4.3(2A)(a) of the LEP would have realised an allowable building height of 34m across both sites;
- despite the non-compliance to the height standard, the proposed development is consistent with the objectives of both the height of buildings development standard and the B4 Mixed Use zone;
- the proposed design solution is considered to represent an appropriate development outcome for the site, displaying a design of high quality and appearance, whilst ensuring that a high standard of amenity for future residents will be achieved;
- there are sufficient environmental planning grounds having regard to the Court matters *Four2Five v Ashfield Council* and *Wehbe v Pittwater Council* to justify the contravention to the development standard as the building has been designed to a high quality and the amenity for future residents will be to a high standard;
- the non-compliance does not directly result in any adverse environmental impacts in terms of the building being out of context with the anticipated bulk and scale of development in the locality;
- the proposal will provide a high quality shop top housing development that is in keeping with the desired future character of the area; and
- the scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Having regard to the circumstances of this case where:

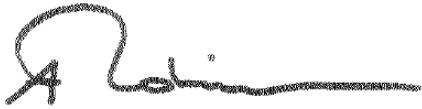
- the overall style, scale and built form of the building will be commensurate with the likely future 'built environment' and desired character of the area;
- the non-compliant height will have negligible impact on the streetscape appearance and character of the locality having regard to the similar height of the proposed development on the adjoining site to the north, for which a development application is understood to have been lodged;
- the proposal is generally consistent with the aims and objectives of *Rockdale Local Environmental Plan 2011*; and
- the proposal is generally consistent with the objects of the *Environmental Planning &*

*Assessment Act 1979*, in particular, the orderly and economic use and development of land and ecologically sustainable development,

it is submitted that this Clause 4.6 Exceptions to Development Standards request is well founded. As such, strict compliance with the height of buildings principal development standard prescribed in Clause 4.3 of *Rockdale Local Environmental Plan 2011* is unreasonable and unnecessary having regard to the circumstances of the case. Accordingly, having regard to the assessment contained in this Clause 4.6 Exceptions to Development Standards submission, it is requested that Council support the proposed variation and the development in its proposed form.

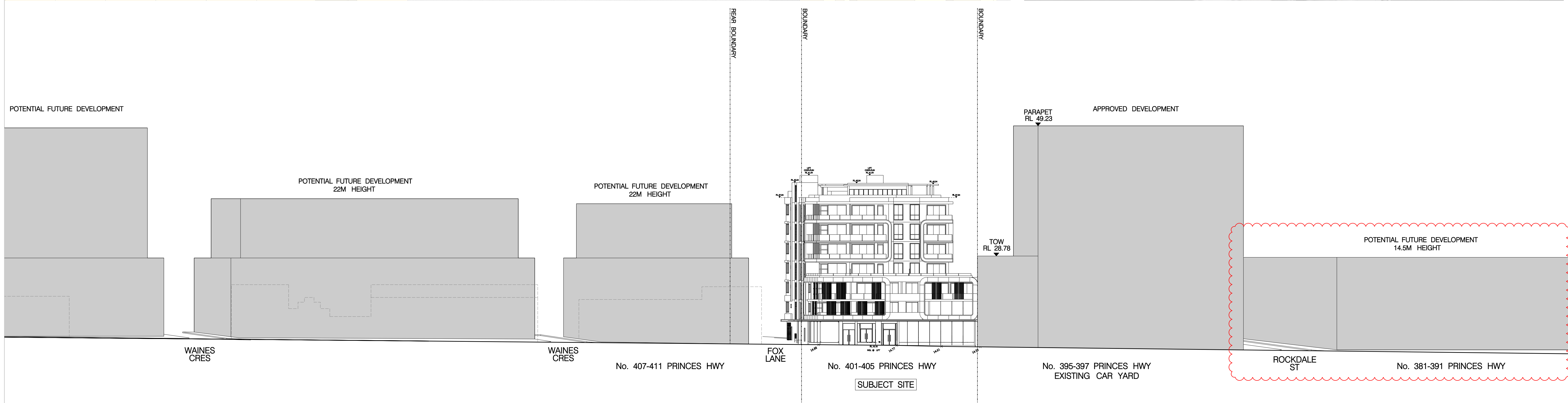
Dated: 23 November 2017

**Andrew Robinson Planning Services Pty Ltd**

A handwritten signature in black ink, appearing to read 'Andrew Robinson', with a long horizontal flourish extending to the right.

Andrew Robinson MPlA CPP  
Director





**01** STREETScape ELEVATION - PRINCES HWY  
SCALE 1:600 @ A3

--- EXISTING BUILDINGS  
 ■ POTENTIAL FUTURE DEVELOPMENT

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
C	5	REISSUE FOR DA AMENDMENT	LN	15.11.2017
D	4	REISSUE FOR DA	LN	08.11.2017
E	3	ISSUE FOR CLIENT REVIEW	HE	17.02.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

skdale\plot\DA\_1710\_Streetscape Elev\_Opt 2.dgn

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518

Level 3, Suite 6, 7-9 Gibbons Street  
 Redfern NSW 2016  
 Australia  
 Tel: (02) 8052 9600  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:

**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**

Client:  
**PELIN IBRAHIM**

Drawing Title:  
**STREETScape ELEVATION**

Issue:  
**E** Date Printed:  
 15/11/2017

Drawing Status:  
**AUTHORITY APPROVAL**

Project Number:  
**PN-391**

Drawing Number:  
**DA-1710**



### Thermal notes for 401-405 Princes Hwy, ROCKDALE NSW.

Category	Items	Simulation Based on the Following Requirements
External Walls	<ul style="list-style-type: none"> <li>Cavity Brick</li> </ul>	<ul style="list-style-type: none"> <li>R1.9 Cavity Board Insulation (Kooltherm K8) to the following units: A1.2, A1.5, A2.1, A2.2, A2.4, A2.8, A3.2, A3.3, A3.7, A4.2, A4.3, A4.7, A5.3, A5.7, A6.4</li> </ul>
Internal Walls	<ul style="list-style-type: none"> <li>Plasterboard on studs</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Ceilings Internal	<ul style="list-style-type: none"> <li>Suspended concrete above plasterboard</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Ceilings External	<ul style="list-style-type: none"> <li>Suspended concrete above plasterboard</li> </ul>	<ul style="list-style-type: none"> <li>R3.50 bulk insulation</li> </ul>
Floors	<ul style="list-style-type: none"> <li>Suspended concrete slab</li> </ul>	<ul style="list-style-type: none"> <li>Foil sided R1.0 fixed to the underside of the floor slab directly above drive, loading bay &amp; void.</li> </ul>
Floor Coverings	<ul style="list-style-type: none"> <li>Tiles</li> <li>Carpet with Rubber backed Underlay</li> </ul>	<ul style="list-style-type: none"> <li>To all wet areas / Living</li> <li>To all bedrooms</li> </ul>
Roof (Medium)	<ul style="list-style-type: none"> <li>Suspended concrete slab</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>

Category	Items	Simulation Based on the Following Requirements
Windows	<ul style="list-style-type: none"> <li>Aluminium framed <i>single glazed clear</i> to all windows and glass Doors unless noted otherwise</li> </ul>	<ul style="list-style-type: none"> <li>Group 'B' ALM-002-01 (Double Hung, Fixed, Louvre, Sliding): U-Value 6.70 or less and SHGC 0.70 +/- 5%</li> </ul>
	<ul style="list-style-type: none"> <li>Aluminium framed <i>single glazed Low 'E' clear</i> to the following: (A1.4, A1.5, A2.7, A2.8, A3.6, A3.7, A4.1, A4.2, A4.6, A4.7, A5.6, A5.7, A6.3, A6.4, all glazing), (A5.2 Kitch/Living glazing)</li> </ul>	<ul style="list-style-type: none"> <li>Group 'B' ALM-002-04 (Double Hung, Fixed, Louvre, Sliding): U-Value 5.60 or less and SHGC 0.41 +/- 5%</li> </ul>
	<ul style="list-style-type: none"> <li>Aluminium framed <i>double glazed Low 'E' clear</i> to all windows and glass Doors to the following units: (A1.2, bedroom &amp; east facing glazing), (A2.2, A2.4, A3.3, A4.3, A5.3, all glazing),</li> </ul>	<ul style="list-style-type: none"> <li>Group 'A' ALM-004-03 (Double Hung, Fixed, Louvre, Sliding): U-Value 4.30 or less and SHGC 0.53 +/- 5%</li> <li>Group 'B' ALM-004-04 (Double Hung, Fixed, Louvre, Sliding): U-Value 4.90 or less and SHGC 0.33 +/- 5%</li> </ul>
	<ul style="list-style-type: none"> <li>Aluminium Thermally Broken Frames <i>double glazed Low 'E' clear</i> to the following: (A1.2, south facing living room glazing),</li> </ul>	<ul style="list-style-type: none"> <li>Group 'B' ATB-004-04 (Double Hung, Fixed, Louvre, Sliding): U-Value 3.10 or less and SHGC 0.27 +/- 5%</li> </ul>

Lighting: This dwelling has been rated with sealed LED / Fluorescent downlights to insulated ceilings.

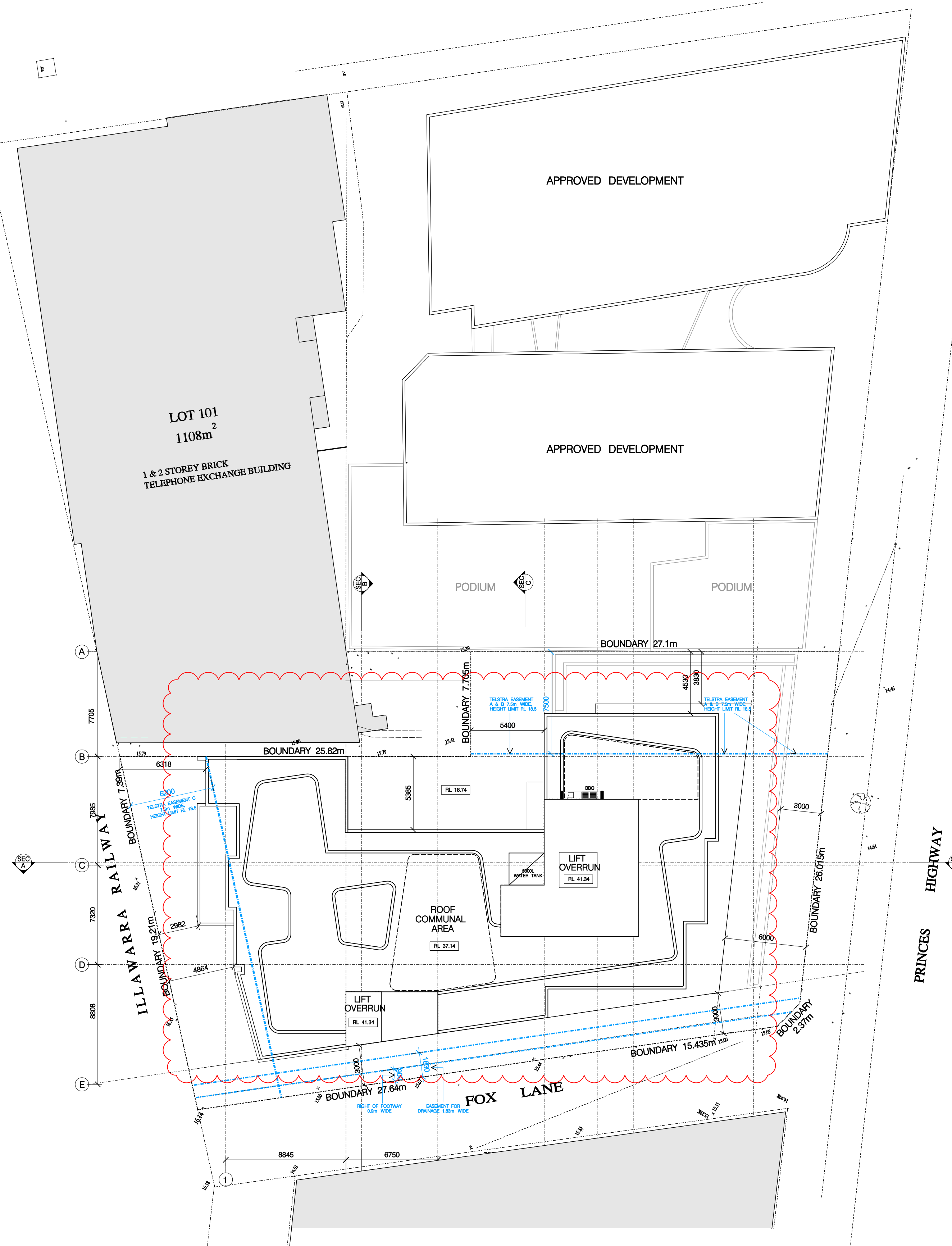
Note: Insulation specified must be installed in accordance with Part 3.12.1.1 of the BCA.

Note: All exhaust fans to be fitted with self-closing dampers.

Notes:

Unit A4.3:

1. Height of living room fixed windows not to exceed 1800mm.



### GFA CALCULATIONS

	COMMERCIAL	RESIDENTIAL	TOTAL
GROUND FLOOR	351 m2	51 m2	402 m2
FIRST FLOOR		495 m2	495 m2
SECOND FLOOR		644 m2	644 m2
THIRD FLOOR		530 m2	530 m2
FOURTH FLOOR		530 m2	530 m2
FIFTH FLOOR		530 m2	530 m2
SIXTH FLOOR		531 m2	531 m2
ROOF PLAN		35 m2	35 m2
<b>TOTAL</b>	<b>351 m2</b>	<b>3346 m2</b>	<b>3697 m2</b>

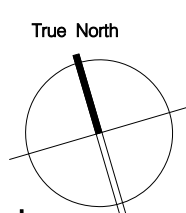
- SITE AREA = 1,306 m2

- PROPOSED FSR = 2.83:1

Scale: 1:200 @A1 1:400 @A3

H:\Pn\_0391\_401-405 Princes Highway Rockdale\plotDA\_0100-Site plan.dgn

Date Printed: 8/11/2017



ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LN	08.11.2017
E	3	ISSUE FOR CLIENT REVIEW	HE	17.09.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

ARCHITECTURE & BUILDING WORKS  
ABN 35 093 181 518

Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9600  
Email: admin@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details:

MIXED USE DEVELOPMENT  
401 - 405 PRINCES HIGHWAY, ROCKDALE

Client:  
PELIN IBRAHIM

Drawing Title:  
SITE PLAN / ROOF PLAN

Drawing Status:  
AUTHORITY APPROVAL

Project Number:  
PN-391

Issue:  
D

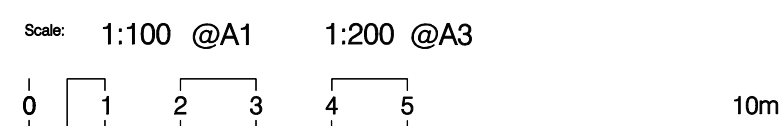
Date Printed:  
8/11/2017

Drawing Number:  
A-0100





04 NORTH ELEVATION  
 SCALE 1: 200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plotDA\_1230-Elevations.dgn  
 Date Printed: 8/11/2017

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LW	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.02.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**

ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9600  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:

**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

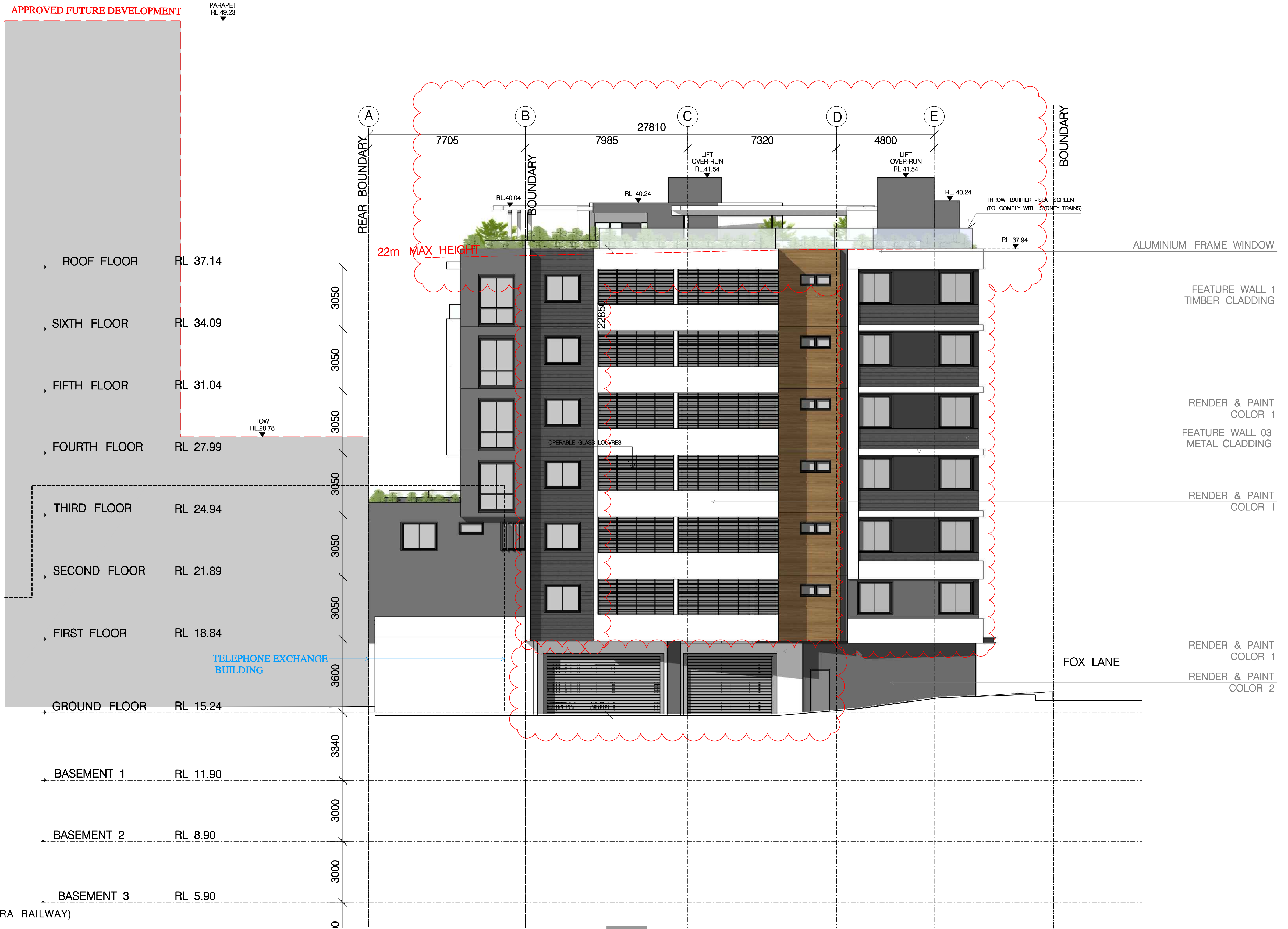
Drawing Title:  
**ELEVATIONS**

Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**

Issue:  
**D**  
 Date Printed:  
**8/11/2017**

Drawing Number:  
**DA-1230**





Scale: 1:100 @A1 1:200 @A3

0 1 2 3 4 5 10m

h:\pn\_0391\_401-405 princes highway rockdale\plot\DA\_1220-Elevations.dgn  
Date Printed: 8/11/2017

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LN	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.10.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**  
ABN 35 093 181 518

Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9600  
Email: admin@abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
Client:  
**PELIN IBRAHIM**

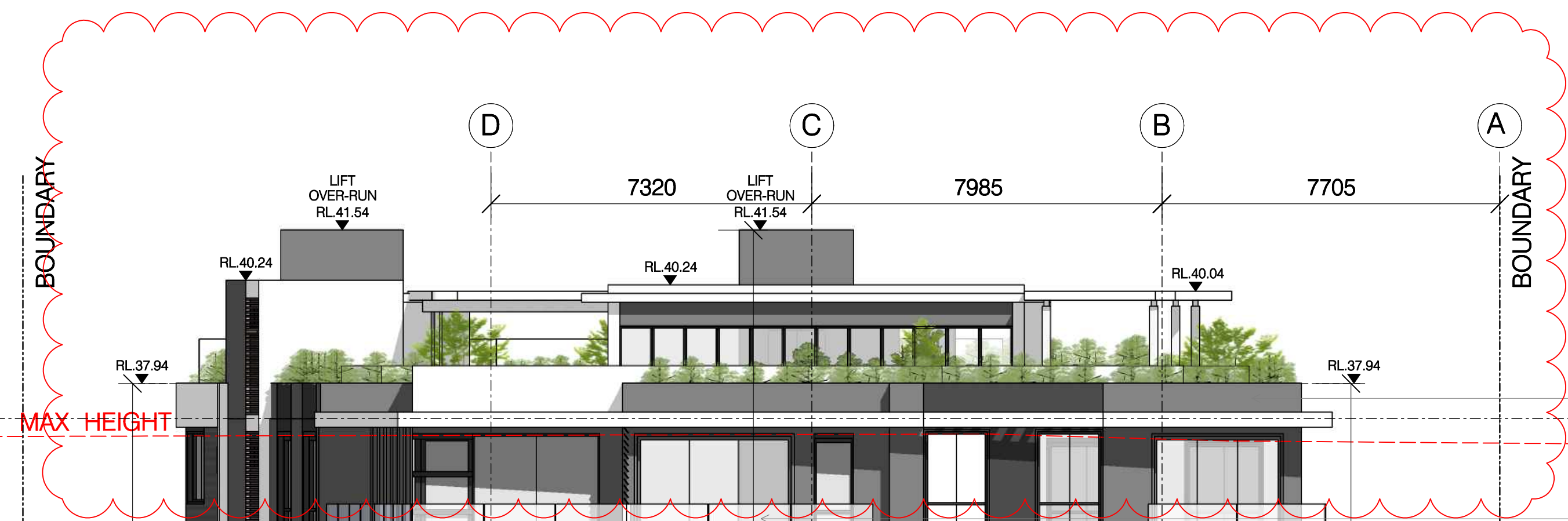
Drawing Title:  
**ELEVATIONS**  
Drawing Status:  
**AUTHORITY APPROVAL**  
Project Number:  
**PN-391**

Issue:  
**D**  
Date Printed:  
**8/11/2017**  
Drawing Number:  
**DA-1220**

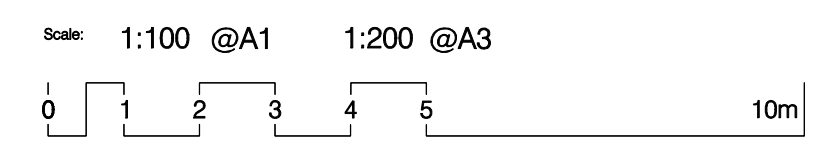


APPROVED FUTURE DEVELOPMENT

PARAPET  
RL 49.23



01 EAST ELEVATION (PRINCESS HIGHWAY)  
SCALE 1:200 @ A3



h:\pn\_0391\_401-405 princes highway rockdale\plotDA\_1200-Elevations.dgn  
Date Printed: 8/11/2017

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LN	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.03.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

ARCHITECTURE & BUILDING WORKS  
ABN 35 093 181 518

Level 3, Suite 6, 7-9 Gibbons Street  
Rockdale NSW 2016  
Australia  
Tel: (02) 8052 9600  
Email: admin@abworks.com.au

Archicads  
Construction Managers  
Interior Designers  
Town Planners

Project Details:

MIXED USE DEVELOPMENT  
401 - 405 PRINCES HIGHWAY, ROCKDALE  
Client:  
PELIN IBRAHIM

Drawing Title:  
ELEVATIONS

Drawing Status:  
AUTHORITY APPROVAL  
Project Number:  
PN-391

Issue:  
D  
Date Printed:  
8/11/2017

Drawing Number:  
DA-1200





Scale: 1:100 @A1 1:200 @A3  
 0 1 2 3 4 5 10m  
 h:\pn\_0391\_401-405 princes highway rockdale\plotDA\_1210-Elevations.dgn  
 Date Printed: 8/11/2017

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LW	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.10.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9600  
 Email: admin@abworks.com.au

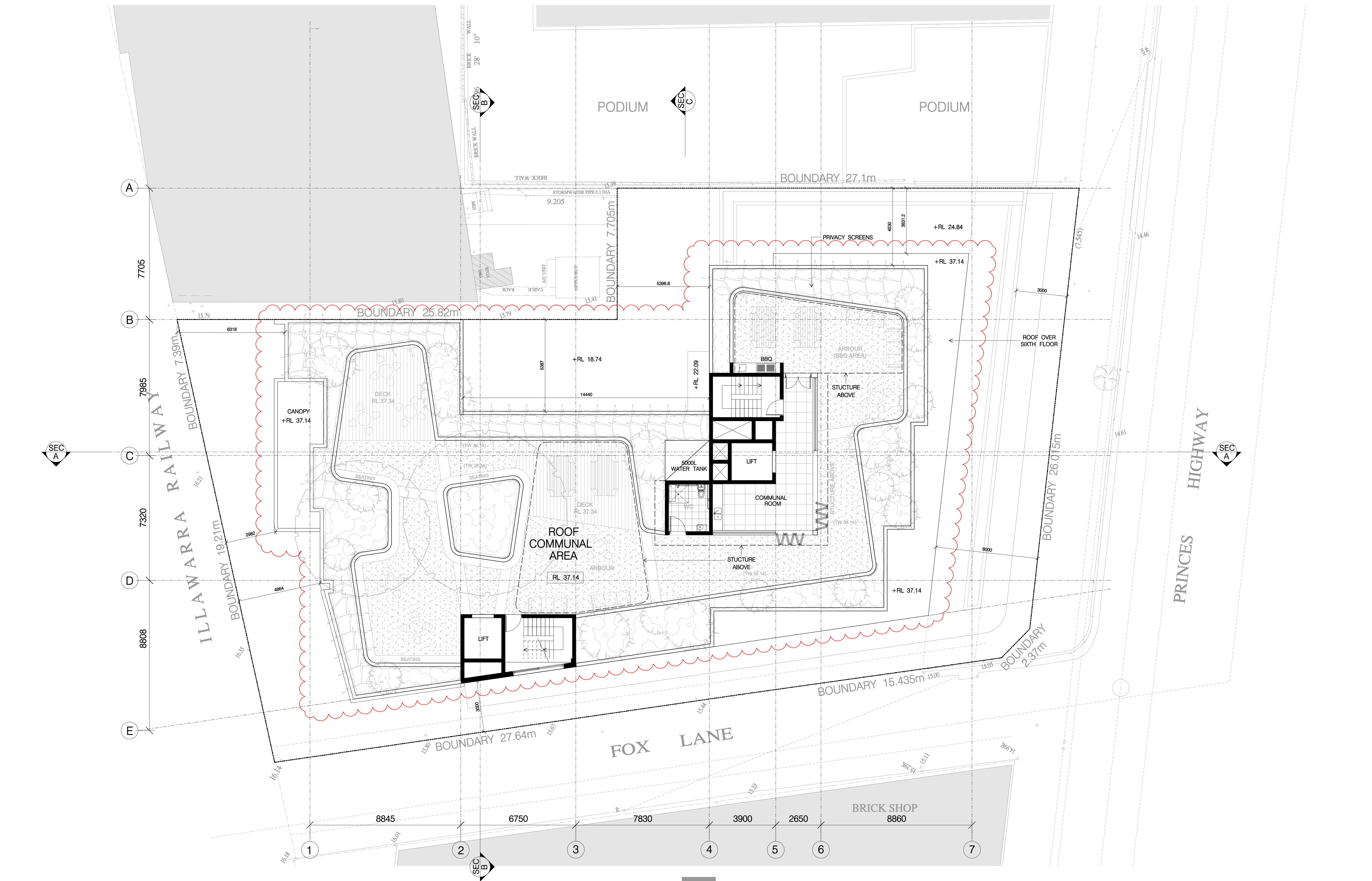
Architects  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

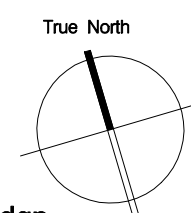
Drawing Title:  
**ELEVATIONS**  
 Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**

Issue:  
**D**  
 Date Printed:  
**8/11/2017**  
 Drawing Number:  
**DA-1210**





Scale: 1:100 @A1 1:200 @A3  
 0 1 2 3 4 5 10m  
 h:\pn\_0391\_401-405 princes highway rockdale\plotDA\_1114-Roof plan.dgn  
 Date Printed: 8/11/2017



ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LN	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.02.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**  
 ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9600  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:  
**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

Drawing Title:  
**COMMUNAL OPEN SPACE PLAN**  
 Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**

Issue:  
**D**  
 Date Printed:  
**8/11/2017**  
 Drawing Number:  
**DA-1114**





Scale: 1:100 @A1 1:200 @A3  
 0 1 2 3 4 5 10m

H:\Pn\_0391\_401-405 Princes Highway Rockdale\plotDA\_1240-Section A-A.dgn  
 Date Printed: 8/11/2017

ISSUE	REV	REVISION DESCRIPTION	APPRO	DATE
D	4	REISSUE FOR DA	LN	08.11.2017
C	3	ISSUE FOR CLIENT REVIEW	HE	17.10.2017
B	2	REISSUE FOR DA	BT	06.06.2016
A	1	DA ISSUE	MA	09.09.2015

**ARCHITECTURE & BUILDING WORKS**

ABN 35 093 181 518  
 Level 3, Suite 6, 7-9 Gibbons Street  
 Rockdale NSW 2016  
 Australia  
 Tel: (02) 8052 9600  
 Email: admin@abworks.com.au

Architects  
 Construction Managers  
 Interior Designers  
 Town Planners

Project Details:

**MIXED USE DEVELOPMENT**  
**401 - 405 PRINCES HIGHWAY, ROCKDALE**  
 Client:  
**PELIN IBRAHIM**

Drawing Title:  
**SECTION A-A**

Drawing Status:  
**AUTHORITY APPROVAL**  
 Project Number:  
**PN-391**

Issue:  
**D**  
 Date Printed:  
**8/11/2017**

Drawing Number:  
**DA-1240**





**ARCHITECTURE & BUILDING WORKS**

ABN 35 093 181 518

Suite 308, Level 3  
7-9 Gibbons Street,  
Redfern, NSW 2016  
P (02) 8502 9600  
E admin@abworks.com.au  
W www.abworks.com.au

Architects  
Construction Managers  
Interior Designers  
Town Planners

Project Details

**401-405 PRINCES HIGHWAY  
Rockdale - NSW - 2216**

Client  
**PELIN IBRAHIM**

Drawing Title

**PHOTOMONTAGE**

Date  
NOV 2017

Project number

**Ph- 0391**

Drawing Number

**A-0000**