
Bayside Planning Panel

10/04/2018

Item No	6.2
Application Type	Development Application
Application Number	DA-2016/66/A
Lodgement Date	09/03/2017
Property	4 Magdalene Terrace Wolli Creek
Owner	Maroun Pty Ltd
Applicant	Design Workshop Australia
Proposal	Modifications - Addition of 1 storey to previously approved development, including 9 additional residential units to create a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces
No. of Submissions	Nine (9)
Cost of Development	\$9,083,496.00
Report by	Fiona Prodromou, Senior Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel not support the variation to the height and FSR development standards, as contained in Clause 4.3 – Height of Building and Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011 as submitted by the applicant.
- 2 That the application under Section 96 of the Environmental Planning & Assessment Act, 1979 for the modification of Development Application DA-2016/66 for the addition of 1 storey to previously approved development, including 9 additional residential units, reconfiguration of basement 2 level to include additional parking spaces be REFUSED for the following reasons:
 - a Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is unsatisfactory with respect of State Environmental Planning Policy 65, in relation to Principle 1 - Context and Neighbourhood Character , Principle 2 - Built Form and Scale and Principle 3 - Density.
 - b Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.3 - Height of Buildings.
 - c Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.4 - Floor Space Ratio.
 - d Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development.

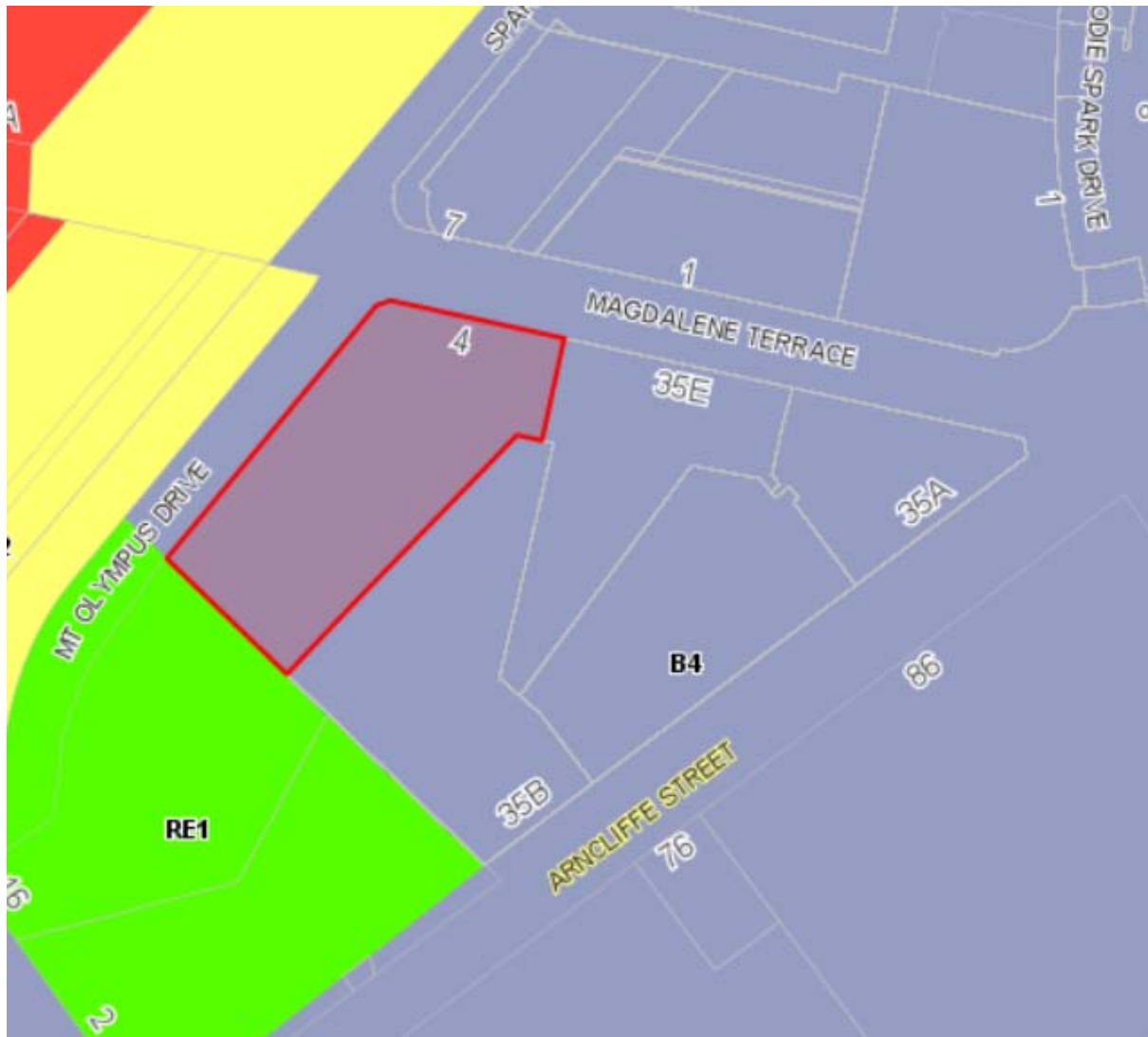
- e Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal as modified is inconsistent with the provisions and objectives of the following parts of Rockdale DCP 2011;
 - Clause 4.1.1 - Views and Vistas,
 - Clause 4.4.2 - Solar Access,
 - Clause 7.1.7 Wolli Creek Built Form - Building Heights and Density.
- f Pursuant to the provisions of Section 79C(1)(d) & 79C(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the reasons noted above and the number of submissions received by Council against the proposed development, approval of the development application is not in the public interest.

3 That the objectors be advised of the Bayside Planning Panel's determination.

Attachments

- 1 Planning Report
 - 2 Site Survey, Site Plan and Statistics
 - 3 Streetscape Analysis
 - 4 Proposed Elevations North and South
 - 5 Proposed Elevations West and East
 - 6 Proposed Roof Plan
 - 7 Proposed Sections 1
 - 8 Proposed Sections 2
 - 9 Proposed Sections 3
 - 10 Photomontage View 1
 - 11 Photomontage View 2
 - 12 Overlaid Shadows Midwinter 9am – 10am
 - 13 Overlaid Shadows Midwinter 11am – 12pm
 - 14 Overlaid Shadows Midwinter 1pm – 2pm
 - 15 Overlaid Shadows Midwinter 3pm
 - 16 Council meeting 06/07/2016 (Original Assessment Report)
-

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/66/A
Date of Receipt:	9 March 2017
Property:	4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)
Owner:	Maroun Pty Ltd
Applicant:	Design Workshop Australia
Proposal:	Modifications - Addition of 1 storey to previously approved development, including 9 additional residential units, to create a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces
Recommendation:	Refused
No. of submissions:	Nine (9)
Author:	Fiona Prodromou
Date of Report:	28 March 2018

Key Issues

On 10th October 2001, Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4, which also allocated the floor space within the development site.

Under the provisions of the previously approved Masterplan, the future building to be constructed upon 'Block C', the subject site was to be entirely commercial.

Following the notification of Rockdale Local Environmental Plan in 2011, the subject site was zoned B4 Mixed Use. Residential flat buildings were permissible upon the subject site, with a height and FSR standard, based on the original Masterplan controls put in effect.

The subject site is located on the south western corner of Magdalene Terrace and Mount Olympus Boulevard. The site area is approximately 3,656sq.m, has been excavated and construction of basement levels has commenced on site. The site is surrounded by high rise developments with commercial at ground floor and residential above, ranging from 5 - 21 storeys in height.

The proposal as modified seeks to add an additional residential level to the previously approved 9

storey development, resulting in a 10 storey building and providing a further 9 residential units. The layout of the previously approved basement levels is to be modified in order to accommodate parking for the additional dwellings.

As a result of the proposed changes referred to above, the proposal as modified results in a further variation to the height limit on site, by an additional 3m overall. The proposal as modified further results in a breach to the previous compliant scheme. The FSR variation equates to 9.3% of the maximum permitted.

The proposal as modified results in a breach to the 3:1 maximum permitted FSR standard on site. The original application complied with the FSR standard with an approved FSR of 2.96:1. The proposal as modified proposes 1,159sq/m of surplus gross floor area which equates to a 9.3% variation to the FSR standard.

As a result of the proposed additional height and bulk, the proposal as modified obscures the regional westerly, north westerly views of Wolli Creek and Waterworth Park to units within Building B within the Proximity Development.

The proposal as modified has been publicly notified in accordance with the provisions of Rockdale DCP 2011. A total of nine (9) objections opposing the proposal have been received. The issues raised in the submissions are addressed in this report.

Recommendation

1. That the Bayside Planning Panel not support the variation to the height and FSR development standards, as contained in Clause 4.3 – Height of Building and Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011 as submitted by the applicant.

2. That the application under Section 96 of the Environmental Planning & Assessment Act, 1979 for modification of Development Application DA-2016/66 for the addition of 1 storey to previously approved development, including 9 additional residential units, creating a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces be REFUSED for the following reasons:

a) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is unsatisfactory with respect of State Environmental Planning Policy 65, in relation to Principle 1 - Context and Neighbourhood Character, Principle 2 - Built Form and Scale and Principle 3 - Density.

b) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.3 - Height of Buildings.

c) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.4 - Floor Space Ratio.

d) Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development.

e) Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment

Act 1979, the proposal as modified is inconsistent with the provisions and objectives of the following parts of Rockdale DCP 2011;

- Clause 4.1.1 - Views and Vistas,
- Clause 4.4.2 - Solar Access,
- Clause 7.1.7 Wolli Creek Built Form - Building Heights and Density.

f) Pursuant to the provisions of Section 79C(1)(d) & 79C(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the reasons noted above and the number of submissions received by Council against the proposed development, approval of the development application is not in the public interest.

3. That the objectors be advised of the Bayside Planning Panel's determination.

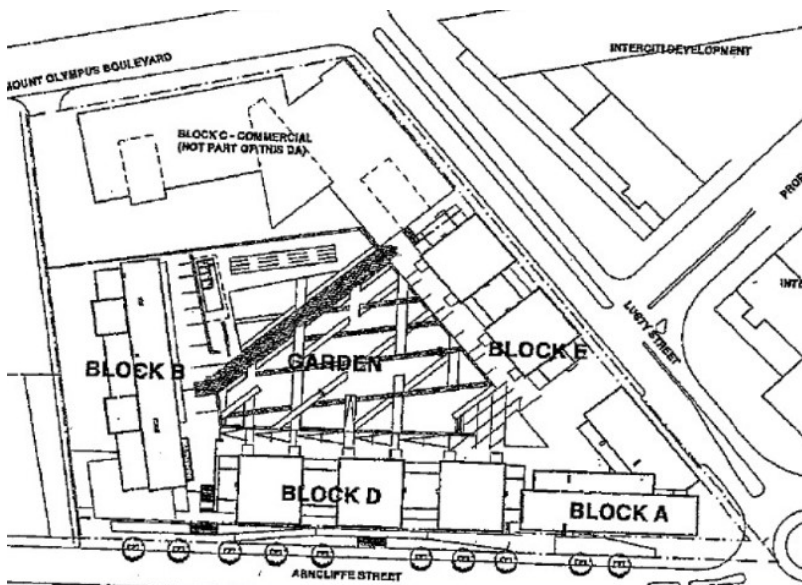
Background

History

10 October 2001

Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4. This condition also allocated the floor space within the development site. The below diagram is indicative of the approved master plan. Under the approved Master Plan the future building to be constructed upon 'Block C', the subject site was to be entirely commercial.



2 October 2002

DA-2002/1243 was approved by Council. This DA incorporated Stage 1 of the redevelopment of the

site within the diagram above and included the construction of four buildings to a height of 5-21 storeys to comprise a mixed use development known as "Proximity" being blocks A / B / D / E. Following October 2002, a number of various amendments were made to previously issued consents.

2011

Following the notification of Rockdale Local Environmental Plan in 2011, the subject site was zoned B4 Mixed Use. Residential flat buildings were permissible upon the subject site, with a height and FSR standard, based on the original Masterplan controls put in effect.

13 September 2012

Approved - DA-2011/461 - Stage 2 Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage.

6 July 2016

Approved as Deferred Commencement - DA-2016/66 - Construction of 100 residential dwellings above the previously approved ground floor commercial premises and incorporated the addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area. The approved development complied with the FSR standard for the site and a variation to the height limit was approved, being a 0.8m - 4.6m height variation.

As a result of the approval of DA-2016/66, the applicant was required to surrender DA-2011/461. DA-2011/461 was surrendered by the applicant on 13 October 2017.

15 August 2017

Activation of Deferred Commencement.

9 March 2017

DA-2016/66/A - Submitted to Council - Addition of 1 storey to previously approved development, including 9 additional residential units, creating a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces.

22 March - 12 April 2017

Public notification of proposal as modified.

6 April 2017

Consideration by the Design Review Panel.

Proposal

The proposal as modified seeks to:

- a) Add a single storey to the approved building resulting in a 10 storey development.
- b) The single additional storey at level 10, includes a total of 9 additional units, resulting in a total of 109 units within the development.
- c) The 9 additional units proposed comprise 2 x 2 bed / 1 x 2 bed + study / 4 x 3 bed / 2 x 3 bed + study
- d) Alterations to the configuration of basement levels 2 - 4, including additional car parking spaces to

accommodate the additional apartments within the approved basement footprint.

e) Increase the height of the approved building from 35.6m to 38.6m.

f) Increase the FSR of the approved building from 2.96:1 (compliant) to 3.27:1, being 1159sq/m surplus gross floor area, equivalent to a 9.3% variation to the FSR control.



View from junction of Magdalene Terrace & Mount Olympus Boulevard



View from Mount Olympus Boulevard

Site location and context

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard and originally formed part of the Proximity Development adjoining to the east, prior to its subdivision and subsequent change in ownership in 2006.

The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. Construction is occurring on site, with basement levels underway. A large tree is located adjacent to the site at 16 Guess Avenue, Wolli Creek.

The 'Proximity' development adjoins the subject property along its eastern boundary. Buildings within Proximity comprise shop top housing above ground level retail uses. A number of established building forms exist within the Proximity site as follows:

- Block E - directly adjoins the proposed development to the east and fronts Magdalene Terrace. Block E is 5 storeys in height with a maximum 21RL.
- Block A - is located at the junction of Magdalene Terrace and Arncliffe Street, it is the highest building within the Proximity Development, 21 storeys in height with a 66.25RL.
- Block D - fronts Arncliffe Street and is 5 storeys in height with a maximum 21RL.
- Block B - is oriented east / west within the Proximity site and is 14 storeys in height with a maximum 51.4RL.

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. There are three mixed use buildings, 10, 18 and 22 storeys in height opposite the site. On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.



Aerial Context

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. This site is zoned RE1 – Public recreation under RLEP 2011 and is earmarked for a future park.

View of site and its eastern neighbour 'Proximity' from the junction of Magdalene Terrace and Mount Olympus Boulevard



Subject Site and eastern neighbour 'Proximity'

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 original development constituted Integrated Development and required approval from the NSW Office of Water. The proposal as modified does not modify previously approved basement depths and as such the general terms of approval (GTA) previously imposed remain, should the proposal as modified have been supported for approval.

S.96(2) - Modification

S96(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S96(2) states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:

a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comments: In determining whether the proposal is 'substantially the same development' consideration has been given to the Land & Environment Court Case 'Moto Projects No.2 Pty Limited v North Sydney Council [1999] NSWLEC 280', which at paragraphs 55 and 56, Commissioner Bignold described the process for consideration of a proposed modification of development as follows:

"55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development."

Comment: The approved development constitutes a 9 storey mixed commercial / residential building with basement parking levels, podium and rooftop communal open space areas. The proposal as modified does not include changes to the footprint of the building or basement, and the building envelope for the approved levels remain largely unchanged. The proposal as modified seeks to add a further 1 storey of residential dwellings within the development, resulting in a 10 storey building on site.

Given the above the proposal as modified remains is essentially and materially the same as the approved development. As such, it is the opinion of the planning officer that the proposal as modified is substantially the same development.

b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comments: The proposal as modified was referred to relevant authorities.

c) it has notified the application in accordance with:

*(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comments: The application has been notified in accordance with the provisions of Rockdale DCP 2011.

d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comments: A total of nine (9) objections have been received.

S96(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S96(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 79C (1) of the Environmental and Planning Assessment Act.

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 revised BASIX Certificate for the proposal as modified. The Certificate number is 641848M_05. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption	20
Reduction in Water Consumption	40
Thermal Comfort	Pass

The proposal as modified is consistent with the provisions and objectives of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Division 15 - Development in or adjacent to Railway Corridors

Clause 86 - Excavation in, above or adjacent to rail corridors

Proposed development that involves ground penetration at least 2m depth that is within 25m of a rail corridor, requires concurrence from Sydney Trains.

Comment: The original proposal involved excavation within 25 metres of the East Hills rail corridor and was referred to Sydney Trains who raised no objection in relation to the proposed development, subject to the imposition of deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations.

The proposal as modified does not alter the aforementioned and should the modification have been supported, the previously imposed conditions of Sydney Trains were to remain.

Clause 87 - Impact of rail noise or vibration on non-rail development

A building for residential use adjacent to a rail corridor requires that measures are taken to limit LAeq (equivalent continuous noise levels) and they are not exceeded:

*(3)(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

Comment: An Acoustic Report prepared by "Harwood Acoustics" dated 28/02/2017 was submitted with the proposal as modified. The report considered the potential impact of railway noise to residential dwellings and recommends amelioration measures to ensure that these levels are not exceeded. Should the proposal as modified have been supported, conditions requiring compliance

with the aforementioned report can be imposed to ensure the proposal complies with the provisions of this clause.

State Environmental Planning Policy No 55—Remediation of Land

The matter of site contamination and remediation was addressed as part of the assessment of the original application. The site was deemed suitable for the development, with conditions of consent being imposed accordingly. The proposal as modified does not seek to undertake further excavation on site greater than that previously approved. In this regard the proposal as modified remains consistent with the provisions of SEPP 55.

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 as modified was referred to the Design Review Panel on 6 April 2017. The Panel supported the proposal as modified as discussed below.

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

The design quality principles of the SEPP have been considered in the assessment of the proposal as modified. The comments of the Design Review Panel are as follows in *italics* below.

Notwithstanding the support of the DRP, it is the view of the assessing officer that the proposal as modified is excessive and inconsistent with Principles 1, 2 and 3 of the SEPP, for the reasons discussed below and as further expanded upon within this report.

Principle 1 – Context and Neighbourhood Character

The Panel was provided with advice that the Wolli Creek development area has been subject to a number of section 4.6 and S96 applications seeking to increase the density of the development. The Panel was also advised that the Discovery Point Project which was previously approved under Part 3A Concept Plan had been increased in density by approximately 7%. In this context the Panel considered that the proposed increase under S96 application of around 9% was appropriate subject to an appreciation of the environmental and social benefits that would accrue.

Comment: Development approvals upon neighbouring sites as referred to by the applicant to the Design Review Panel pre date the development standards of Rockdale LEP 2011. As such these approvals have no correlation to the site or development specific circumstances of the proposal as modified and as such should not be levied as justification for the proposed breach to the height standard.

The applicant further refers to and seeks to rely upon the previously approved Section 75W application approved by the NSW Department of Planning and Environment in 2015 (MP10_0003 Mod 4 dated May 2015) which modified the previously approved concept plan for the Discovery Point Precinct to the north of the site, permitting an increase in the gross floor area of buildings 11 / 12 / 13 within this

precinct. These buildings are located directly adjoining Wolli Creek Railway Station and are 145m north of the subject site. Council objected to the proposed increase in GFA by the proponent at the time.

Council continues to raise concern with further proposed increases in density above and beyond the standards established by relevant planning controls within the Wolli Creek precinct.

The proposal as modified is contrary to the height and FSR standards for the site, which are intended to establish the future desired and intended streetscape character and context of the locality. The additional level unnecessarily exacerbates the height, bulk and scale of the previously approved development on site.

The density of the locality is established. The mix of building heights and massing surrounding and adjoining the site are at capacity, as is the subject site. The additional level proposed is not setback from the street edge which results in further overshadowing to the existing public domain, future planned neighbouring public open space area and contributes to a sense of enclosure within this portion of Wolli Creek.

The proposal as modified does not enhance the character of the area or neighbourhood and is not considered to satisfy this principle.

Principle 2 – Built Form and Scale

The Panel considered that the proposed additional floor level (level 10) represented an acceptable built form outcome that benefited from the existing approved design.

Comment: The proposed additional level is not recessed from the street edge and as a result further exacerbates the bulk, height and scale of the development. The proposal as modified does not achieve the overall height, bulk and scale of development envisaged by the planning controls for the subject site, which are intended to establish the desired future character of the street and locality. The proposal as modified is unsatisfactory in this regard.

Principle 3 – Density

The Panel acknowledged that the proposed increase in density from 2.96:1 to 3.27:1 exceeded the permissible maximum of 3.0:1 but considered that the potential benefits such as increasing housing supply and diversity, and close proximity to a transport node warrant acceptance of the increase subject to the application of an additional negotiated development contribution which would be directed toward broader public realm improvements.

Comment: The additional 1,159sq/m gross floor area proposed breaches the FSR development standard. The density of the locality in this area is primarily established. The mix of building heights and massing surrounding and adjoining the site are at capacity, as is the subject site. The proposal is unsatisfactory with respect of this principle.

Principle 4 - Sustainability

Acceptable.

Comment: The proposal as modified does not seek to remove previously approved sustainability

measures on site. The proposal as modified was accompanied by a revised BASIX certificate which confirms energy efficiency measures. The proposal as modified is satisfactory with respect to this principle.

Principle 5 – Landscape

Acceptable.

Comment: The previously approved rooftop communal open space area is provided with appropriate facilities and shade structures as recommended by the DRP during the assessment of the original application. The proposal as modified remains consistent with this principle.

Principle 6 – Amenity

The Panel acknowledged that the increased height of the building does not adversely affect the amenity of the proposed development or the amenity of the adjacent buildings and surrounds.

Comment: As discussed further in this report, the proposal as modified results in adverse view loss impacts and unnecessary additional overshadowing to the dwellings and the communal open space areas of the adjoining Proximity development. A further reduction to the amenity of neighbouring properties as a result of the proposed FSR breach and further height variation, is unwarranted, unreasonable and beyond that anticipated by the relevant planning controls for the site. The proposal is unsatisfactory in this regard.

Principle 7 - Safety

Acceptable

Comment: The proposal as modified retains previously approved safety and security measures on site. The development is provided with two prominent and clearly identifiable residential building entries to both Magdalene Terrace and Mount Olympus Boulevard, which comprise direct pedestrian access, generous lobbies and provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas are accessible via a secure electronic system. Common areas are to be well lit with clearly defined pathways.

The original consent incorporates conditions with respect of the provision of CCTV security cameras at residential entries and basement levels and the incorporation of clear directional signage on site to advise users of security measures in place. The proposal as modified is satisfactory in regards to the requirements of this principle.

Principle 8 - Housing Diversity and Social Interaction

Acceptable. The Panel acknowledges that the proposed S96 variation will increase the diversity of housing within the overall complex.

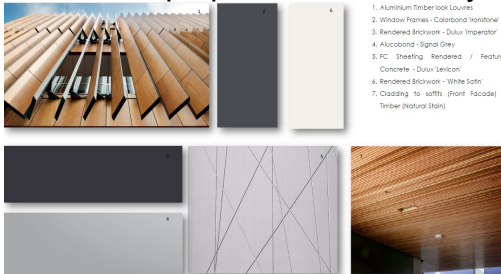
Comment: The proposal as modified increases the number of larger unit types within the development, catering to a mix of household types. The design of additional units provides for varied housing choice. The proposal as modified retains the two previously approved communal facilities at podium and rooftop level with various spaces including bbq, lawn and childrens playground area, which will

encourage and provide opportunities for social interaction between future occupants.

Principle 9 – Aesthetics

Acceptable.

Comment: The proposal as modified does not seek to alter the previously approved colours, finishes or materials. Materials and colours are retained as per the approved schedule of colours and finishes below. The proposal is satisfactory with respect of this principle.



c. the Apartment Design Guide

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

CLAUSE	DESIGN CRITERIA			COMMENTS	COMPLIES
3D - Communal Open Space	25% (913.5sq/m) Site Area 50% Direct sunlight to principle useable part of COS for minimum 2 hours between 9am - 3pm in midwinter			See discussion below.	Partial
3F Visual Privacy	Building height	Habitable rooms & balconies	Non habitable	21.8m building separation from eastern facade of development to western wall of Building B within the Proximity Development.	Yes
	> 25m (9+storeys)	12m	6m		
3J - Bicycle and car parking	Min parking requirements are set out by the ADG. Max parking requirements are set out by Rockdale DCP 2011. The applicant has chosen to provide the maximum car parking permitted on the site in accordance with the rates set out in Rockdale DCP 2011.			Refer to Part 4.6 - Parking Rates of this report.	Yes

4A – Solar and daylight access	Living rooms + POS of at least 70% (77 of 109) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter Max 15% (17 of 109) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			96% (101 of 109) units receive 2 hours solar access in midwinter. 5.5% (6 of 109) receive nil solar in midwinter	Yes Yes									
4B – Natural ventilation	Min 60% (66 of 109) of apartments are naturally cross ventilated in the first nine storeys of the building. < 18m, glass line to glass line.			74.3% (81 of 109) units cross ventilated 17m maximum depth glass line to glass line	Yes Yes									
4C – Ceiling heights	<table><tr><td colspan="2">Min ceiling heights:</td></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>			Min ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	2.7m / 2.4m floor to ceiling	Yes			
Min ceiling heights:														
Habitable	2.7m													
Non-habitable	2.4m													
4D – Apartment size and layout	<table><tr><td>Apartment type</td><td>Min area</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>			Apartment type	Min area	2 bedroom	70m ²	3 bedroom	90m ²	2 bed – 75sq/m - 93sq/m 3 bed – 105sq/m - 122q/m	Yes Yes			
Apartment type	Min area													
2 bedroom	70m ²													
3 bedroom	90m ²													
4E – Private open space and balconies	<table><tr><td>Type</td><td>Min area</td><td>Min depth</td></tr><tr><td>2 bed</td><td>10m²</td><td>2m</td></tr><tr><td>3 bed</td><td>12m²</td><td>2.4m</td></tr></table> Min balcony depth contributing to the balcony area is 1m.			Type	Min area	Min depth	2 bed	10m ²	2m	3 bed	12m ²	2.4m	2 bed - 10sq/m 3 bed - 12sq/m-15sq/m Balcony depth > 1m	Yes Yes
Type	Min area	Min depth												
2 bed	10m ²	2m												
3 bed	12m ²	2.4m												
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.			> 8 units off single circulation core	No - see discussion below.									
4G – Storage	<table><tr><td>Dwelling</td><td>Volume</td></tr><tr><td>2 bed</td><td>8m²</td></tr><tr><td>3 bed</td><td>10m²</td></tr></table>			Dwelling	Volume	2 bed	8m ²	3 bed	10m ²	Appropriate fixed storage provided within units and supplementary at basement level for future occupants.	Yes			
Dwelling	Volume													
2 bed	8m ²													
3 bed	10m ²													

3D - Communal Open Space

The proposal as modified comprises a total of 2805sq/m communal open space provided in the form of two separate areas. i.e. Podium 1692sq/m / Rooftop 1113sq/m. Communal open space areas on site are well designed, provided with facilities, seating, equitable access and varied spaces for interaction and play.

Solar access to podium communal open space is restricted, given its orientation to the south and south east behind the proposed development. Solar access in midwinter is achieved to the proposed pool at podium level from 12pm onwards in midwinter, yet the majority of the podium communal areas are in shadow in midwinter as a result of the proposed development and adjoining neighbouring high rise developments.

Notwithstanding, the proposed rooftop communal area receives in excess of 2 hours solar access in midwinter given its location. The communal open space areas proposed will provide for appropriate on site amenity for future occupants and the proposed development is considered to satisfy the objectives of 3D - Communal Open Space.

4F - Common Circulation and Spaces

The proposal as modified seeks to provide in excess of 8 apartments off a single circulation core. The proposal as modified indicates a maximum of 9 units off a single corridor to the new level as proposed.

It is noted that lift lobbies within the development are designed as double height spaces with full height glazing to enable solar access to internal circulation areas. Additionally both ends of the common corridors are provided with fire rated windows, which will provide for additional daylight. The proposed circulation spaces as proposed do not differ from those previously approved and are considered to provide reasonable amenity for future occupants.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio	No - see discussion	No - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified is defined as shop top housing, which constitutes a permissible development only with development consent. The proposal as modified is consistent with the objectives of the zone, providing residential accommodation within an accessible location.

4.3 Height of buildings

A maximum height of 31m applies to the subject site. The table below illustrates the approved height of the development, variations inclusive, as compared to the proposal as modified:

<i>Location</i>	<i>As Approved</i>	<i>Proposed</i>	<i>Complies</i>	<i>Difference</i>
Roof of building	31.8m (34.8RL) (2.5% variation)	34.8m (37.8RL) (12.2% variation)	No	+9.7% overall increase in height variation to that previously approved
Top of balustrade	32.92m (35.92RL) (6.1% variation)	35.92m (38.92RL) 15.8%	No	
Top of vertical facades elements	33.25m (36.25RL) (7.2% variation)	36.25m (39.25RL) 16.9%	No	
Top of lift/stair overrun, toilet & pergola	35.6m (38.6RL) (14.8% variation)	38.6m (41.6RL) 24.5%	No	

As can be seen above, the proposal increases the overall building height by a total of 3m. This results in a height variation of 3.8m - 7.6m, being an overall additional variation of 9.7% to the height standard.

As the proposal is a S96 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the additional variation to the height limit as sought by the applicant has been assessed against the objectives of Clause 4.3 - Height of Buildings and the objectives of Clause 4.6 below.

Applicants Justification

- a) The proposed modification is consistent with the height objectives of Clause 4.3(1) of the RLEP as noted in the previous Clause 4.6 Variation;*
- b) The proposed development is consistent and compatible with the desired future character of the land which is for high density mixed use development as established by the existing built form in the surrounding area (notably the 5-21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) and the 46m height zone to the north;*
- c) The proposed development is consistent with the objectives of the B4 Mixed Use Zone;*
- d) Amenity is not compromised for the public domain or adjacent residential sites as a result of the non-compliance with the height standard;*
- e) The departures from the height control within the RLEP 2011 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls;*
- f) Council has virtually abandoned their controls in the vicinity of the site relative to additional height as via the height variation of the "Proximity" development.*
- g) The proposed area of height non-compliance is considered to result in a size and scale of development that is compatible with the desired future character of the locality. In particular, adjacent buildings (notably the 21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) breach the height standard of by up to 32m. In this regard, the 'Proximity' building is 11 storeys taller than the proposed development when measured from Arncliffe Street. Seen within the context of the surrounding development, the proposed modification remains compatible with the desired future character of the locality.*

- h) The proposed modification does not contribute to adverse overshadowing or overlooking of the habitable and or private open space areas of neighbouring properties.*
- i) Given the varying building height of surrounding development, which is generally much higher than the approved development, the additional single storey will assist to improve the visual relationship with surrounding development.*
- j) The increase in height provides for a suitably articulated and interesting roof form that provides a high level of residential amenity. The proposed rooftop structures are also 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. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.*
- k) The proposed height is considered appropriate in respect of its impact on wind, design and amenity improvements, views, shadows, and privacy.*

Assessment

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) In assessing the height of the original application, specific consideration was given to existing site and footpath levels surrounding the site, in addition to the flood affectation of the site. The following excerpt from the original planning report details the contextual and site considerations applied in the assessment of height as part of the original application DA-2016/66.

"The natural ground level of the site prior to excavation was generally 3RL. As a result of the flooding constraints of the site a minimum floor level of 3.3RL was required. Notwithstanding existing footpath levels adjoining the site to Magdalene Terrace and Mount Olympus Boulevard range from 5.05RL to 5.29RL. As a result the natural ground level of the subject site is therefore up to 2.05m 2.29m below footpath level. The original approval for the site was consented to with a raised floor level of 5RL in order to ensure the development remained directly level with and accessible from the public footpath. The aforementioned are site circumstances which directly correlate to the overall height of the proposed development and result in a minor variation (0.8m) to the height of the building to the rooftop."

As demonstrated above, the circumstances of the site at the time, were directly correlated to the overall height of the approved original development. Flexibility was applied in the original assessment and a minor variation to the height standard had been supported at that time. There are no new or additional circumstances of which warrant additional height upon the subject site.

b) Development approvals upon neighbouring sites as referred to by the applicant, pre date the development standards of Rockdale LEP 2011. As such these approvals have no correlation to the site or development specific circumstances of the proposal as modified and as such should not be levied as justification for the proposed breach to the height standard as sought by the applicant.

c) The proposal as modified results in additional unnecessary overshadowing to the northern / western façade of residential units within Building B of the Proximity development and the central podium communal open space of this neighbouring established development. The proposal as modified further results in unnecessary additional overshadowing to the future public park which is to be located

adjoining the subject site. This park is intended to form a key feature and social hub within the future desired character of Wolli Creek.

d) The proposal as modified is contrary to the principles of SEPP 65 with respect of future desired neighbourhood character and building height.

e) The proposal as modified is contrary to the aims and objectives of the Apartment Design Guide with respect of building height.

f) The additional adverse view loss impacts arising from the proposal as modified and detailed within this report are directly correlated to the additional height proposed in this application. A reduction of the regional westerly, north westerly views of Wolli Creek and Waterworth Park to a further level of units within Building B of the adjoining Proximity development is unreasonable and unnecessary.

g) The maximum height for this site is established by the current height standard which is based on the original Masterplan for the subject site. Whilst the Masterplan no longer applies, the height standard is applicable and the maximum building height upon this site has been achieved upon this site in the form of the original development. The proposal as modified is an overdevelopment of the subject site. There are nil development or site specific circumstances which warrant the additional height as proposed. The height standard in this instance is reasonable and necessary in order to ensure Bayside Council's vision for the future desired character of Wolli Creek is achieved.

h) The proposal as modified is contrary to the objectives of Clause 4.3 - Height of Buildings, resulting in adverse environmental effects upon the use or enjoyment of adjoining properties, by virtue of unnecessary additional overshadowing and view loss impacts generated.

i) The proposal as modified does not result in an improved outcome upon the subject site than the current approved development, of which flexibility to the height standard had been previously applied.

j) The scale and nature of the non compliance is not in the public interest and has the potential to set a significant undesirable precedent. Council has not 'abandoned' its planning controls in relation to height, as suggested by the applicant, rather has accepted variations to specific sites >100m to the south west of the subject site, within Willis Street. Variations in this location have occurred in order to provide consistency in building forms within this small pocket of Willis Street, following the removal of an isolated site.

k) The proposal as modified is inconsistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.

l) The proposal as modified is inconsistent with the requirements and objectives of Rockdale DCP with respect of Views and Vistas.

m) 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.

n) The applicant has not provided sufficient environmental planning grounds particular to the proposal as modified and the site, which demonstrate that the height standard is unreasonable or unnecessary.

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 upon 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, varying the height limit applicable to a site must be correlated to the particular circumstances of the site or development. This has not been demonstrated in this instance by the applicant.

Given the above, it is not considered that the proposed additional height should be supported. It is reiterated that there are insufficient environmental planning grounds particular to the site and development presented by the applicant of which to justify a further contravention of the height standard.

4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10 962.9sq/m.

The table below illustrates the FSR and gross floor area of the development as approved and proposed:

<i>As Approved</i>	<i>Proposed</i>	<i>Complies</i>	<i>Variation</i>
2.96:1 10,825sq/m GFA	3.27:1 (1,159m ² surplus GFA)	No	9.3% variation to FSR standard

As the proposal is a S96 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the variation to the FSR control as sought by the applicant has been assessed against the objectives of Clause 4.4 - Floor Space Ratio and the objectives of Clause 4.6 below.

This assessment further considers 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 a development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of standard. Consideration is to be given to the particular site circumstances of the site and development.

Applicants Justification

A summary of the applicants key arguments supporting the additional FSR are as follows:

- The proposal is consistent with the objectives of Clause 4.4, the increased density of development is considered appropriate within the context of the site. Specifically, the proposed additional nine (9) units can be sustained by the existing infrastructure, public transport, access to jobs, community facilities, public open space and the environment. It follows that the proposed modification will therefore allow the development of the site in accordance with its environmental capacity. Consequently, the development and intensity of land use is in accordance with the infrastructure capacity and desired future character of the locality.*
- The proposed modification would not result in an unreasonable impact on surrounding properties.*

The modifications will have minimal (if any) potential amenity impacts (in terms of wind, design, views and privacy), and the additional parking requirements are fully accommodated within the approved basement levels.

- The development will remain compliant with SEPP 65 and the Apartment Design Guidelines (ADG). It is therefore considered that the modification will have minimal impact on the use or enjoyment of adjoining properties.*
- The modified development will retain an appropriate visual relationship with the surrounding area, which is undergoing significant transformation.*
- The development is located in a highly accessible location, with direct access to public transport, employment, community facilities and public open space. The proposed nine additional units seek to maximise the sites potential, particularly in relation to the use of Wolli Creek Railway Station. It is also noted that the modified development will provide for 30 bicycle parking spaces, which is 19 more than required by the Rockdale Development Control Plan 2011 (RDCP). In this respect, the proposed modification provides for suitably integrated land uses that will maximise public transport patronage and encourage walking and cycling.*
- The proposed building is a high quality building that will add architectural value to the existing streetscape. The proposal has been designed with appropriate modulation and building depth which allows for the proposed residential units to obtain appropriate solar access and ventilation. The proposed development also provides for an appropriate correlation between the maximum building height, density and ground floor activation of a prominent corner location.*
- The proposal will therefore allow the development of the site in accordance with its environmental capacity.*
- There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the breach of the floor space ratio standard. In the circumstances of this particular site and its current approval, we therefore consider it more appropriate to allow a variation in FSR that achieves an improved outcome rather than to strictly apply the FSR standard.*

Assessment

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 FSR variation as proposed is inappropriate for the following reasons:

- a) The scale and nature of the proposed additional gross floor area is not in the public interest and has the potential to set a significant undesirable precedent. Council has not 'abandoned' its planning controls in relation to FSR.
- b) The maximum development density for this site is established by the current FSR standard. The maximum residential yield has been achieved upon this site in the form of the original development. The proposal as modified is an overdevelopment of the subject site. There are nil development or site specific circumstances which warrant the additional floor space as proposed. The FSR control in this instance is reasonable and necessary in order to ensure Bayside Council's vision for the future desired character of Wolli Creek is achieved.
- c) The proposal as modified is contrary to the principles of SEPP 65 with respect of future desired neighbourhood character and density.
- d) The proposal as modified is contrary to the aims and objectives of the Apartment Design Guide with

respect of FSR.

e) The proposed additional FSR results in additional adverse view loss impacts to units within Building B of the adjoining Proximity development. A further level of residential units will obscure the regional westerly, north westerly views of Wolli Creek and Waterworth Park to units within Building B. The proposal as modified is inconsistent with the requirements and objectives of Rockdale DCP 2011 with respect of Views and Vistas.

f) The proposal as modified results in additional unnecessary overshadowing to Proximity Development, its podium communal open space and the future public park which is to be located adjoining the subject site. The future park is intended to form a key feature and social hub within the future desired character of Wolli Creek.

g) The proposal as modified is contrary to the objectives of Clause 4.4 - FSR, resulting in adverse environmental effects upon the use or enjoyment of adjoining properties, by virtue of unnecessary additional overshadowing and view loss impacts generated.

h) The proposal as modified does not result in a better outcome upon the subject site than the current approved development which complies with the FSR standard.

i) The proposal as modified is inconsistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.

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

k) The applicant has not provided sufficient environmental planning grounds particular to the proposal as modified and the site, which demonstrate that the FSR standard is unreasonable or unnecessary.

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 FSR upon 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, varying the FSR of a site must be correlated to the particular circumstances of the site or development. This has not been demonstrated in this instance by the applicant.

Further to the above, it is reiterated that the Section 75W application within the Discovery Point Precinct in Wolli Creek as discussed previously in this report, should not be used as leverage by the applicant in order to seek or obtain additional floor space beyond that permissible on the site.

Given the above, it is not considered that the proposed additional FSR should be supported. 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 FSR standard.

6.6 Flood Planning Land

The subject site is identified in council records as being flood affected. The proposal as modified does not seek to alter previously approved ground floor levels which are to be constructed above the flood threshold. As such the modified proposal maintains compliance with the provisions of this clause.

6.7 Stormwater

The proposal as modified does not seek to alter previously issued conditions of consent relating to the disposal of stormwater from the subject site. The proposal as modified remains consistent with the provisions of this clause.

6.11 Active Street Frontages

The proposal as modified does not seek to reduce or alter the previously approved commercial tenancies at ground level which facilitate the provision of an active street frontage to both Mount Olympus Boulevard and Magdalene Terrace. The proposal as modified remains consistent with the requirements of this clause.

6.12 Essential services

Services are generally be available on the site, and standard conditions of consent were generally imposed upon the original DA. The proposal as modified does not alter the aforementioned and the proposal as modified remains consistent with the provisions of this clause.

S4.15(1)(a)(ii) - Provisions of any Draft EPI's

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	No - see discussion	No - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	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
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
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 Access to Parking	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Servicing - Wolli Creek and bonar Street	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 - Visual Connections	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes - see discussion
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes	Yes
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and Density	No - see discussion	No - see discussion
7.1.8 Wolli Creek Street Character and Setbacks	Yes	No - see discussion
7.1.9 Wolli Creek - Environmental Management	Yes	Yes

4.1.1 Views and Vista

The proposal as modified provides an additional 1 storey, 3m in overall building height, to the previously approved building form on site. The additional storey has a proposed finished floor level of 34.8RL and roof level of 37.8RL. Rooftop structures above, further exceed these heights.

The proposal as modified will result in the loss of views to an additional level of residential units within Building B of the Proximity Development as follows:

a) Block B - Loss of distant westerly / north westerly regional views of Wolli Creek and Waterworth Park.

These units previously retained these views given the approved height of the original development, which comprised a minor variation only to rooftop structures which were minimised in area, scale and location at rooftop level.

The proposal as modified results in further view loss impacts, which are above and beyond those anticipated by the planning controls for the subject site. In this regard, the proposal as modified is considered to be unreasonable and inconsistent with the requirements and objectives of this clause.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter. This clause further requires that development be designed and sited to minimise the extent of shadows that it casts on private and communal open space of adjoining dwellings. Whilst the provisions of this clause require a minimum of 3 hours of solar access, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause. Notwithstanding, a merit assessment has been undertaken below against the objectives of this clause.

The subject site, approved development and proposal as modified are primarily located to the north, west and north west of the adjoining 'Proximity' development, which comprises shop top housing in residential towers 5 - 21 storeys in height. Given the orientation of the subject site, position of the approved development and the additional level as sought by this application, it is inevitable that some degree of overshadowing impacts will result to the existing 'Proximity' development (including its podium level communal open space and pool).

Further to the above, to the north of the subject site and the 'Proximity' development, at 1-7 Magdalene Terrace, are three existing buildings within the 'Discovery Point' development, which are 10, 18 and 22 storeys in height overall. Given the height and location of these buildings directly north of the subject site and 'Proximity' development, some overshadowing impacts already occur to the subject site and 'Proximity' development.

Notwithstanding the above, an assessment has been undertaken below of the overshadowing impacts of the proposal as modified, being the resultant additional shadow of the proposed additional storey.

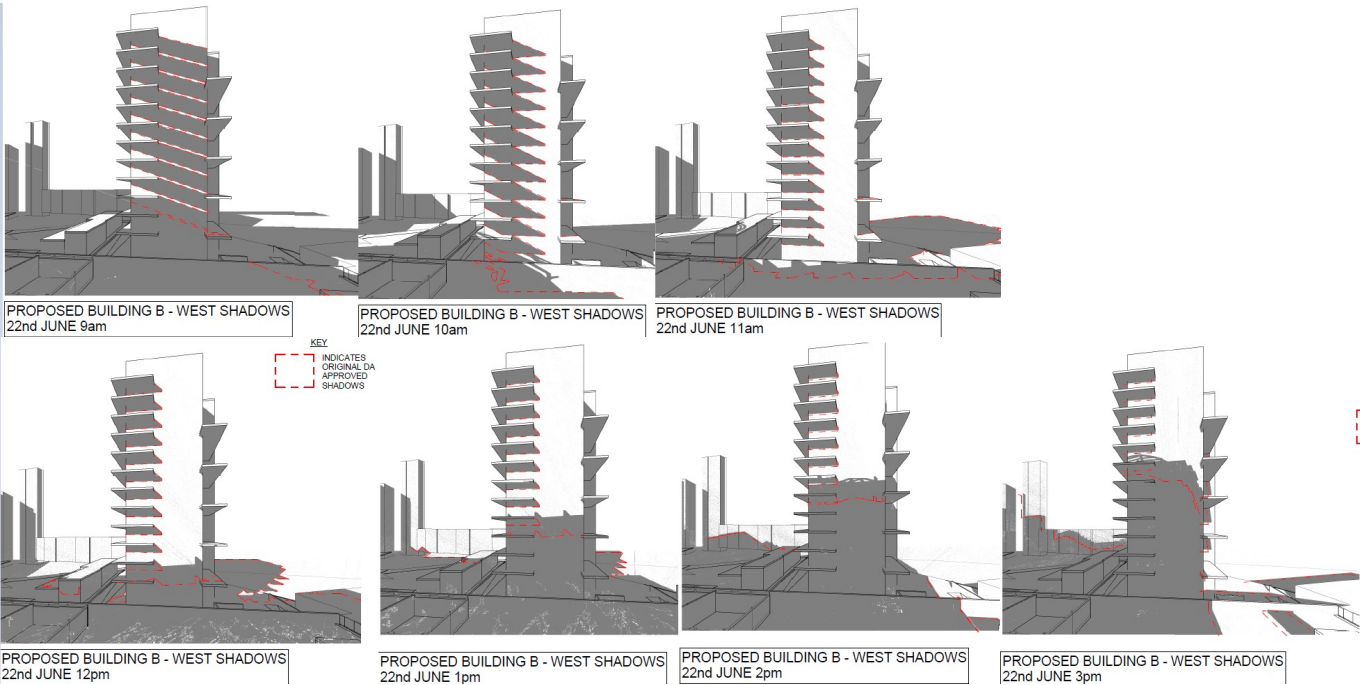
Proximity Building B

Elevational shadow diagrams illustrating the approved and proposed shadows onto the western and northern facades of Building B were submitted with the application. These diagrams illustrate the additional overshadowing that arise to the northern and western facades of Building B, with the central podium communal courtyard of the Proximity development as a result of the proposed additional level.

Further to the above, it is noted that submitted elevational shadow diagrams depicting the northern and western façades of building B do not accurately illustrate window openings and balcony locations, as can be seen below.



Notwithstanding the above, elevational shadows to the western façade of Building B illustrate as follows, with the red outline depicting the original approved shadows.



The above shadows demonstrate that a minimum of 2 hours of solar access is achieved in midwinter between 10am - 12pm to the west facing window / balcony openings to units within Building B of Proximity. This complies with the requirements of the Apartment Design Guide (ADG). The proposal as modified will however result in further overshadowing of an additional lower level of Proximity Building

B (western windows / openings) from midday onwards in midwinter.

With respect to the northern façade of Building B, the proposed modification will have no impact on solar access to the northern façade of Proximity Building B before 1pm in mid-winter. This elevation will retain current levels of solar access in midwinter until 1pm, whereby minor additional overshadowing occurs as a result of the proposed additional level.

Notwithstanding the above, the additional shadow cast upon the northern / western facades of Building B as a result of the proposal as modified is considered to unreasonably diminish sunlight to neighbouring properties and is thus inconsistent with the objectives of this clause.

Proximity Pool

The communal pool located at podium level within the Proximity development is positioned along the western side boundary of the property with the subject site. At 9am in midwinter the entire pool is in shade as a direct result of the shadow generated by buildings 3 and 5 at 1-7 Magdalene Terrace. The proposed development generates shadows to this pool at 9am, yet it is reiterated that the pool is already in complete shade given the shadow caused by Buildings 3 and 5 within Discovery Point located on the northern side of Magdalene Terrace.

Prior to the approval of the original DA, half of the Proximity pool was in sunlight at 10am in midwinter.

The approved development, overshadowed the pool entirely at 10am. At 11am - 12pm in midwinter this pool is overshadowed completely by the shadow generated by Buildings 3 and 5 at 1-7 Magdalene Terrace. The shadow onto the pool as caused by the approved development was no greater than this shadow and the pool remained in shade at this time. At 1pm - 3pm in midwinter, the pool is overshadowed by the previously approved development.

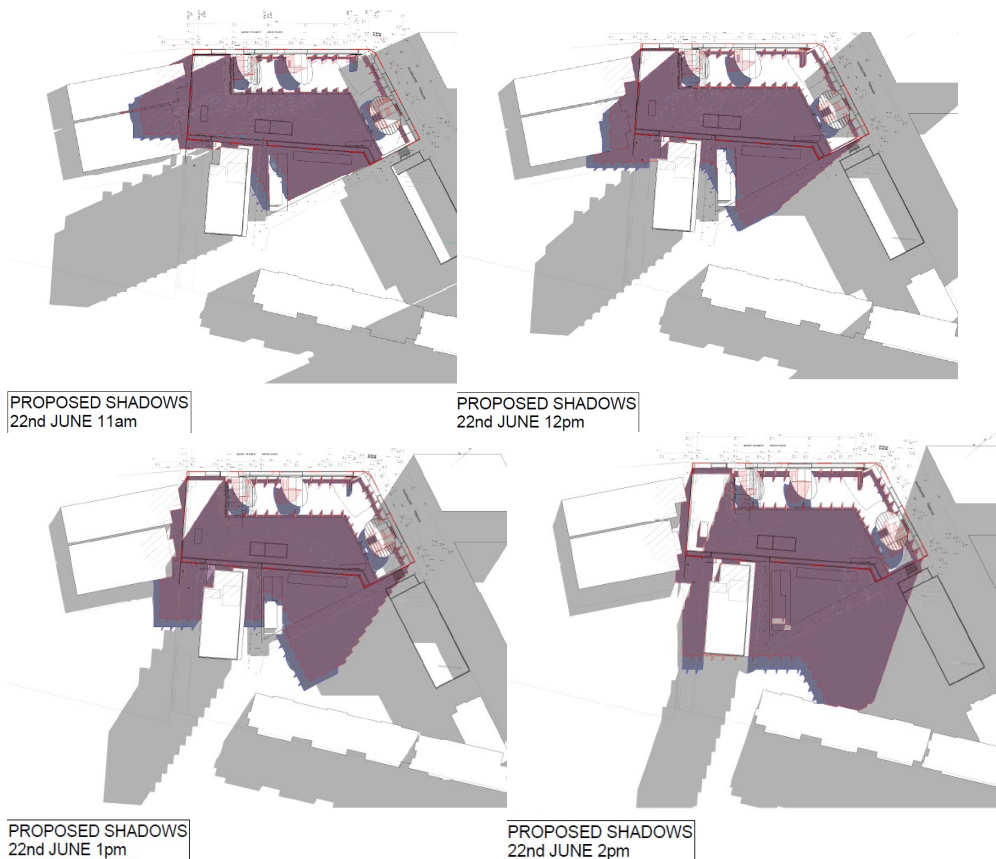
Given the above, it is evident that as a result of the location of the proximity pool, the approved development and existing shadows caused by neighbouring buildings to the north, the pool at podium level will receive nil sun in midwinter.

The proposal as modified does not result in further overshadowing to the pool area, given the aforementioned.

Proximity Communal Open Space

At 9am in midwinter the garden podium communal open space area within Proximity is entirely overshadowed by the existing Proximity buildings and developments on the northern side of Magdalene Terrace. At 10am 1/3 of the communal area is in sunlight, this area will remain in sunlight at 10am with the proposal as modified.

The proposal as modified results in further overshadowing of this area as shown in blue below.



At 11am -12pm as approved, approximately half the communal area is in sunlight. At 1pm and 2pm the proposal as modified results in further additional shadow to the communal area, above and beyond that cast by neighbouring existing buildings and the previously approved development. The additional shadow cast at this time results in a smaller portion of the communal area receiving solar access in midwinter.

The objectives of this clause require that development does not unreasonably diminish sunlight to neighbouring properties. The provisions of this clause further require that buildings be sited to reduce overshadowing on adjoining properties by increasing setbacks, staggering of design, variations in roof form and/or reducing building bulk and height.

Given the proposal as modified does not recess the proposed additional level, seeks to breach the FSR standard and further vary the height control on the site, the additional shadow impacts to this central communal area are not considered to be reasonable.

Given the above the proposal is not considered to satisfy the objectives or provisions of this requirement.

4.4.4 Glazing - General Controls

Plans indicate the provision of louvered and sliding screens to residential balconies to the eastern, western and northern elevations. This will aid in reducing the necessity for mechanical heating and cooling to habitable areas and provide appropriate weather protection. The proposal as modified complies with the requirements of this clause.

4.4.5 Acoustic privacy

The original development was conditioned to adhere to the recommendations of the Acoustic Report

prepared by the Acoustic Group dated 24 July 2015, which incorporated noise amelioration measures to mitigate against traffic, rail and internal noise transmission, ensuring appropriate internal acoustic amenity is achieved.

The proposal as modified was accompanied by an acoustic report prepared by Harwood Acoustics, which considered road and rail noise, along with internal noise transmission for the proposal as modified. The report recommended measures to be incorporated during construction to ensure appropriate amenity is retained within the proposal as modified.

Subject to the incorporation of the recommendations of these reports, the proposal as modified is satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

4.4.7 Wind Impact

The proposal as modified was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 22 February 2017 ref 2015-341 Rev.3. The report stipulates that the most critical annual limiting gust wind speeds are expected in the following open areas:

- Communal Area at Podium Level;
- Podium Balconies;
- Level 2 – 9 Balconies; and
- Level 10 - Roof Terrace.

The report provides recommendations as follows in order to mitigate wind impacts on site given the height of the development.

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

The proposal as modified complies with the requirements of this clause, subject to the implementation of the recommendations of the report referred to above.

4.5.1 Social Equity - Housing Diversity and Choice

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

<i>DCP Requirement</i>	<i>Approved</i>	<i>Proposed</i>	<i>Complies</i>
1 bed / Studio 10% (11) - 20% (22)	2 x studio / 13 x 1 bed 14 x 1 bed + study 29 of 100 (9 surplus)	Nil increase of studio / 1 bed units from those previously approved.	
2 bed 50% (55) - 75% (82)	56 x 2 bed 1 x 2 bed + study 57 of 100	58 x 2 bed 2 x 2 bed + study	Yes – 60 of 109 (55%)

3 bed 10% (11) - 30% (33)	7 x 3 bed 7 x 3 bed + study 14 of 100	11 x 3 bed 9 x 3 bed + study	Yes – 20 of 109 (18.3%)
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As demonstrated above, the proposal as modified does not alter the previously approved number of studio / 1 bedroom units and complies with the minimum required number of 2 - 3 bedroom units sought to be achieved by the provisions of this clause.

The proposal is therefore consistent with the objectives and requirements of this clause.

4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (11) of residential units within the development are required to be provided as adaptable units. A total of 18 units (2, 4, 6, 7, 8, 14, 31, 32, 33, 41, 56, 57, 58, 66, 81, 82, 83, 91) were previously approved as adaptable units within the development. There are no new adaptable units provided within the proposed addition. The proposal as modified thus retains compliance with the minimum number of adaptable dwellings required within the development.

Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels and communal open space areas allowing equitable access for persons with a disability / mobility impairment.

An Access Report prepared by Accessible Building Solutions, dated 15 February 2017 confirms compliance with relevant disability legislation. The proposal as modified is consistent with the requirements and objectives of this clause.

4.6 Parking Rates - Shop-top Housing

The car parking rates of Rockdale DCP 2011 apply to the development. These rates were applied in the assessment of the original application and are sought by the applicant as part of the proposal as modified.

As per the provisions of this clause, parking provision is to be provided as follows on site.

- 1 space per studio, 1 and 2 bedroom (89 spaces required)
- 2 spaces per 3 bedroom (40 spaces required)
- 1 visitor space per 5 dwellings (22 visitor spaces required)
- 1 x dedicated car wash bay
- 58 commercial spaces
- 42 bike spaces
- 18 motorbike spaces

Given the above, a total of 210 car parking, 42 bike and 18 motorbike spaces are required for the proposal as modified.

Plans illustrate a total of 211 car, 42 bike and 18 motorbike spaces provided as follows:

Basement 1 - 58 commercial car spaces / 6 bike / 2 motorbike

Basement 2 - 55 car spaces (22 visitor / 31 residential / 2 car wash bays) / 12 bike / 6 motorbike

Basement 3 - 65 residential spaces / 12 bike / 4 motorbike
Basement 4 - 33 residential spaces / 12 bike spaces / 6 motorbike

The proposal as modified complies with the requirements of this clause.

4.6 Car Wash Facilities

Two (2) appropriately dimensioned car wash bays are proposed within basement level 2. The proposal as modified satisfies the requirements of this clause.

4.6 Pedestrian Access and Sustainable Transport

Plans indicate the provision of 36 bicycle spaces within basement levels 2-4. These areas are secure and enclosed with mesh fencing. The proposal as modified provides in excess of the minimum number of bicycle spaces required by DCP 2011. The proposal as modified is therefore considered to positively encourage future occupants to adopt alternative modes of transport. The proposal as modified is consistent with the requirements and objectives of this clause.

4.7 Air Conditioning and Communication Structures

Plans indicate the provision of air conditioning units upon the balconies of residential units. Balconies are provided with either masonry or glazed balustrades to both street frontages of the property. The existing consent comprises a condition requiring that glass balustrades be opaque to ensure that air conditioning units are not visible from the public domain. This existing condition ensures that the proposal as modified is also satisfactory in relation to the requirements of this clause.

4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of two (2) waste chutes within the development, being one chute adjoining each lift core within the building. Waste is to be discharged into 1100L residential and 660L commercial bins on site. Waste is to be compacted and discharged into waste holding rooms within basement level 2 which is of sufficient dimension and area to accommodate the proposal as modified.

Separate previously approved garbage storage areas are provided at ground level adjoining the loading dock for use by commercial tenancies on site.

Recycling bins are provided within a waste compartment on each residential level for the north core and levels 3, 5, 7 and podium for the dual level cross over apartments in the northwest core. Full waste and recycling bins will be transferred to the bin enclosure on basement 2. Bins will then be transferred to the ground floor loading bay via the goods lift on the day of collection and serviced by Council within the loading dock.

The proposal as modified provides appropriate on site waste management and satisfies the provisions of this clause.

4.7 Servicing - Wolli Creek and Bonar Street

The existing consent comprises a condition, which requires the developer to relocate underground electricity cables on the frontages of the site at no cost to Council. The proposal as modified is therefore consistent with the provisions of this clause.

4.7 Laundry Facilities and Drying Areas

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

4.7 Letterboxes

Residential mail boxes were previously approved adjoining the main entry foyers to the upper residential levels. The proposal as modified complies with the requirements of this clause.

4.7 Hot Water Systems

Nil details are provided in relation to the location of hot water units to residential dwellings.

Notwithstanding the original consent incorporates conditions to ensure that all hot water systems/units located on the balcony of dwellings are encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work concealed. The proposal as modified is satisfactory with respect of the provisions of this clause.

5.2 RFB - Building Entry

As approved the development comprises individual residential building entries to both frontages of the site at Magdalene Terrace and Mount Olympus Boulevard. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street and development. The proposal as modified does not alter previously approved building entries and thus remains compliant with the requirements and objectives of this clause.

5.2 RFB - Lift Size and Access

Three lifts, as previously approved, are provided within the proposal as modified. A single lift core is provided to the portion of the building fronting Magdalene Terrace and a dual lift core to the portion of the building fronting Mount Olympus Boulevard. Each lift provides access from basement levels to the uppermost storey of each building on site. Cross over between lifts is provided at levels 3 / 5 / 7 via a common corridor and the rooftop communal open space area, enabling future occupants access to three lifts within the building. Lifts are appropriately dimensioned. The proposal as modified complies with the requirements and objectives of this clause.

5.3 Mixed Use - Visual Connections

The proposal as modified retains the previously approved glazed ground floor retail spaces to both street frontages with clearly identifiable residential lobbies. Upper levels of the approved development, including the proposal as modified incorporate residential balconies and windows, which overlook the public domain and provide passive surveillance from the site. The proposal as modified is satisfactory in this regard.

5.3 Mixed Use - Secured Access to Parking

This clause requires that where a building contains residential and non-residential uses, separate lift access be provided from basement car parking to the residential and non-residential areas. Additionally that residential parking spaces be secure and separate from non-residential vehicle parking and servicing areas.

As approved plans detail the provision of secure residential car parking at separate levels from commercial car parking on site. Additionally, approved plans illustrate the provision of a separate goods / customer lift and ramp provided within the development for the future commercial uses, enabling future customers to access the ground level retail uses via a separate lift from those intended for the upper level residential uses.

The proposal as modified does not alter the aforementioned and remains consistent with the objectives and requirements of this clause.

7.1.7 Wolli Creek Built Form: Building Heights and Density

The building height diagram within Part 7.17 of DCP 2011 illustrates a height of up to 8 storeys being permitted upon the subject site. The development as approved comprised a total of 9 storeys with rooftop elements atop the building. Whilst the 9th storey was a variation to this control, the development as approved, to the rooftop level complied with the LEP height requirements. The proposal as modified further seeks to add an additional level to the approved development, resulting in a 10 storey building with associated rooftop structures on site.

The requirements of this control further require that solar access to public parks be retained between 12pm - 2pm on June 21. Plans illustrate additional and unnecessary overshadowing to the future public park to the south between 11am - 2pm in midwinter.

The proposal as modified seeks to vary the LEP height standard, results in greater overshadowing impacts to neighbouring buildings and the future anticipated public parkland to the south. The proposal as modified is inconsistent with the height, density and mass of development anticipated upon the subject site, as per the provisions and objectives of this clause.

As such the proposal as modified is unsatisfactory with respect of the provisions and objectives of this clause.

7.1.8 Wolli Creek Street Character and Setbacks

The Magdalene Terrace frontage of the site is identified as 'Retail Street Frontage' with the Mount Olympus Boulevard frontage of the site identified as 'Mixed Use Street Frontage' within the street character diagrams depicted within this clause.

Accordingly, a 2m building setback is required to both frontages of the site, of which a further 2.5m articulation zone is also required. The articulation zone is intended to comprise only balcony elements.

The development as approved complies with the 2m building setback to both frontages, with building elements protruding into the articulation zones at both site frontages as can be seen in yellow below.

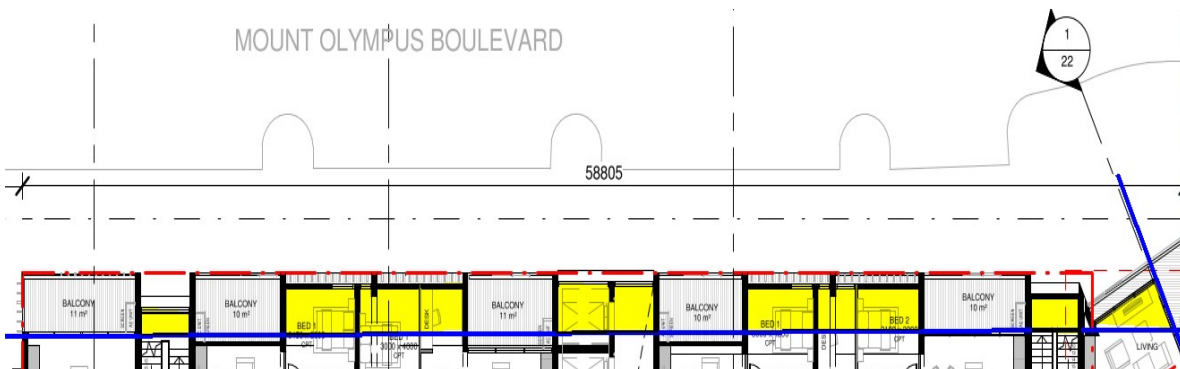
As approved, the design of the development alternates on each level, with balconies proposed within the articulation zone on Levels 2, 4, 6 and 8 and a mix of floor space and balconies on Levels 3, 5, 7 and 9. The proposal as modified remains consistent with the aforementioned and illustrates partial protrusions within the articulation zone.



Building element protrusions to Magdalene Terrace

Building E adjoining the approved development to the east is positioned closer to Magdalene Terrace than the approved development and the proposal as modified. Building E comprises solid balcony elements which protrude forward of the building line of the approved development and proposal as modified.

The additional level proposes building line protrusions akin to those previously approved. Given the established building line and balcony elements of Building E to the east, and the consistency of protrusions with those previously approved, the variation in this instance is not unreasonable.



Building element protrusions to Mount Olympus Boulevard

With respect to building protrusions to the Mount Olympus Boulevard frontage of the site, it is reiterated that the level 10 protrusions are akin to those previously approved at levels below. Further, the proposal as modified shall be the only building directly fronting Mount Olympus Boulevard.

Given the above, the proposal as modified is satisfactory with respect of the objectives of this clause.

S4.15C(1)(a)(iv) - Provisions of regulations

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

4.15C(1)(b) - Likely Impacts of Development

Sydney Trains

The subject site is positioned opposite the railway line. The original proposal was referred to Sydney Trains for comment and deferred commencement conditions were imposed, to ensure the construction of the development did not adversely impact upon the nearby train line or its operations. The Deferred Commencement conditions remain applicable with respect of the proposal as modified.

Safety & Security

The development was previously approved with clearly identifiable and legible residential building entries to both Magdalene Terrace and Mount Olympus Boulevards. Residential lobbies comprise direct pedestrian access and are glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal as modified remains consistent with the aforementioned and is satisfactory in this regard.

Social Impact

The proposal as modified provides a greater number of larger residential dwellings within the previously approved development. The larger unit types and mix will cater to and accommodate a range of housing types.

S4.15(1)(c) - Suitability of the site

The original proposal, as approved, maximised the achievable yield upon the subject site and complied with the FSR standard. The proposal as modified results in a substantial breach (1159sq/m) to the FSR standard and is deemed to be an overdevelopment of the site.

Whilst a minor height variation was originally approved, the extent and scale of this variation was limited. i.e. 0.8m variation to roof of building to 4.6m to top of lift overrun. The additional height sought by the applicant (3.8m - 7.6m) results in adverse and unreasonable amenity impacts to neighbouring properties including loss of views / vistas and additional overshadowing. The additional height as sought by the applicant is unnecessary and contrary to the planning controls envisaged for the subject site.

Given the above, the subject site is not deemed to be suitable for the proposal as modified.

S4.15(1)(d) - Public submissions

The proposal as modified has been notified in accordance with the provisions of Rockdale DCP 2011 and 9 submissions were received. The issues raised in the submissions received by Council are discussed below:

Further overshadowing to south facing apartments at 1 Magdalene Terrace

Comment: The proposal as modified does not overshadow the objectors unit at 1 Magdalene Terrace. The objectors building is positioned north of the subject site, on the northern side of Magdalene Terrace, within Discovery Point. The objectors building overshadows itself given its orientation and location.

Privacy impacts to units in 1 Magdalene Terrace

Comment: The proposal as modified is positioned in excess of 25m away from the objectors property.

Given the aforementioned building separation, privacy impacts are not anticipated.

Contrary to Master Plan for the site / Development is not commercial as required by Master Plan

Comment: The provisions of the MP no longer apply.

Further overshadowing of Proximity pool and gardens by extra storey

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

View loss impacts from units within Proximity Development

Comment: The matter of view loss has been previously discussed in this report. The proposal as modified results in view loss impacts.

Increased Traffic / Mount Olympus Boulevard is too narrow for service vehicles to enter the site i.e. Woolworths trucks / Service trucks

Comment: The proposal as modified complies with the car parking requirements of DCP 2011. The previously approved vehicle entry, exits and turning areas, particularly with respect of trucks, loading and unloading are not proposed to be modified. The width of Mount Olympus Boulevard is sufficient to accommodate vehicular movements anticipated for the approved development.

Visual privacy impacts to Proximity pool / Visual privacy impacts to units within Proximity Building B

Comment: The podium level of the proposed development and the adjoining Proximity development are not aligned, with substantial shrub and tree terraced planting provided at podium level of the proposed development along the common eastern boundary of the site with Proximity. Also, given the approved landscaping at the common boundary and level difference of 2.4m, it is unlikely that the proposal will result in adverse overlooking of the Proximity Pool.

Further to the above, the rooftop communal open space is recessed from the edge of the building, with periphery shrub and tree planting provided. Additionally the proposal as modified comprises a building separation of greater than 20m from Building B within the Proximity development. The building separation as proposed and previously approved as aforementioned is considered to be satisfactory in order to avoid adverse visual privacy impacts between neighbours.

Traffic & Car Parking impacts

Comment: Councils Engineer considered the matters of car parking, maneuverability and traffic and was satisfied that the proposal was unlikely to result in adverse traffic or car parking impacts within the surrounding road network. It is reiterated that the proposal complies with relevant car parking requirements and provides an on site loading / unloading bay.

Devaluation of property.

Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.

Acoustic impact of rooftop communal open space to residents in Building B

Comment: The rooftop communal open space area is located in excess of 20m away from Building B within Proximity. The rooftop area is intended to be provided as a secondary 'passive' communal open space area, with the swimming pool and children's play equipment located within the 'active' communal open space area at podium level. Given the distance of the rooftop communal open space area from Building B and the high density residential context of the area, it is not considered likely that the rooftop communal open space area will result in adverse acoustic impacts to neighbours.

Loss of solar access to building B within Proximity development.

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

S4.15C(1)(e) - Public interest

The proposal as modified is considered to be unsatisfactory for the reasons previously outlined within this report. The proposed additional height results in adverse impacts relating to overshadowing and view loss and the resultant building form is inconsistent with the future desired character and anticipated density envisaged for the subject site. The proposal as modified in this regard is not in the public interest.

S7.11 Contribution towards provision or improvement of amenities or services

Should the proposal as modified be supported for approval, additional S94 contributions can be levied for the further increase in density on the site.

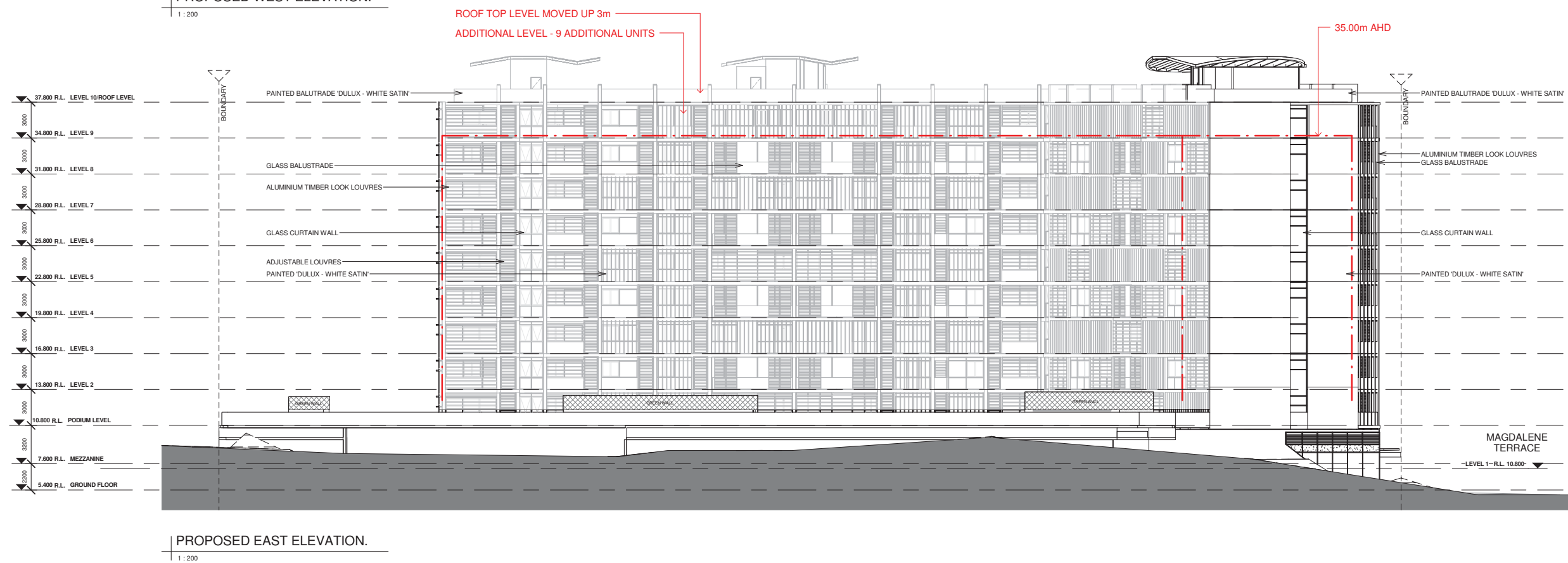
Schedule 1 - Draft Conditions of consent



STUDIO
1 BEDROOM
1 BEDROOM + STUDY
2 BEDROOM
2 BEDROOM + STUDY
3 BEDROOM
3 BEDROOM + STUDY
TOTAL

Window	All UNO	G James - 5mm single glaze clear Aluminium frame	6.57	0.73	
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A1



REF.	DATE	REVISION
0	01/03/2017	SECTION 26

Legend:

R001	REINFORCED BROW/SKOF	S	STOW/CRUI	SLW	SLOING WINDOW	P	POST
R002	REINFORCED BROW/SKOF	R	RIF	FR	FRIG WINDOW	T	TIMBER FLOOR
R003	FACE BROW/SKOF	SE	SE	SE	SEAL FRAME	CP	CARPET
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R166	FACE BROW/SKOF	TS	TS	TS	TS	TS	TS
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R209	FACE BROW/SKOF						

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Email: info@designworkshop.com.au
Web: <http://www.designworkshop.com.au>
Nominated Architect: Robert Gizzi (Reg. 8286)

CLIENT:	TOM PTY LIMITED MIXED USE DEVELOPMENT
ADDRESS:	LOT 2, DP 1064374 4 MAGDALENE TERRACE WOLLI CREEK
DRAWING NAME:	PROPOSED- ELEVATIONS

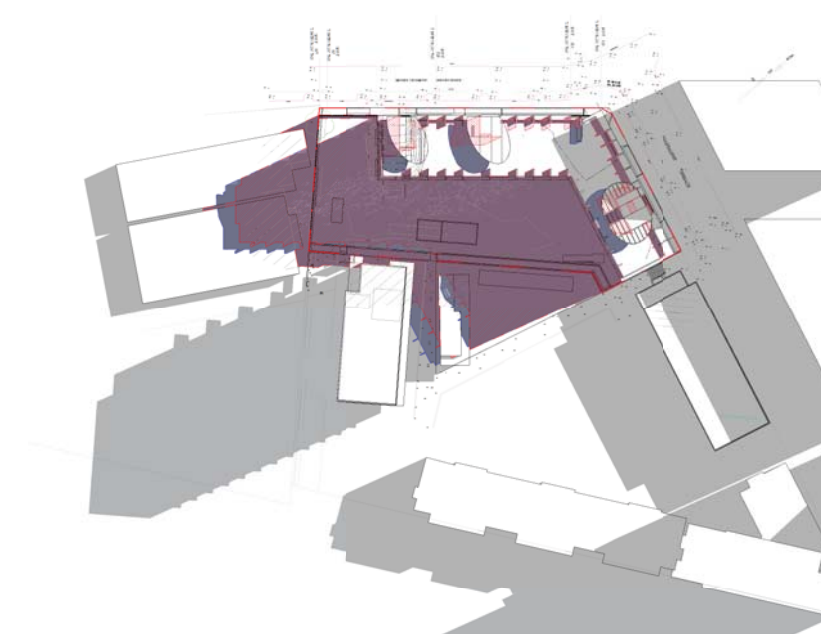
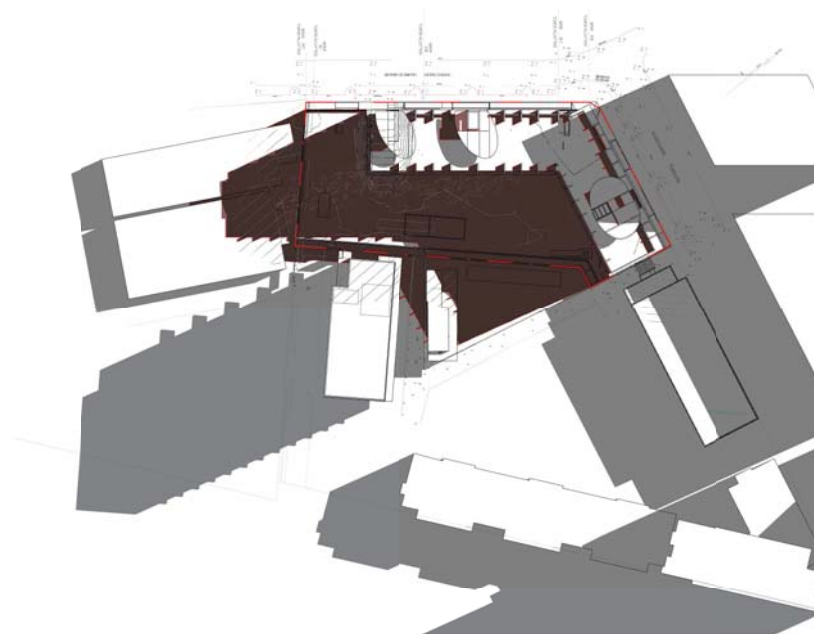
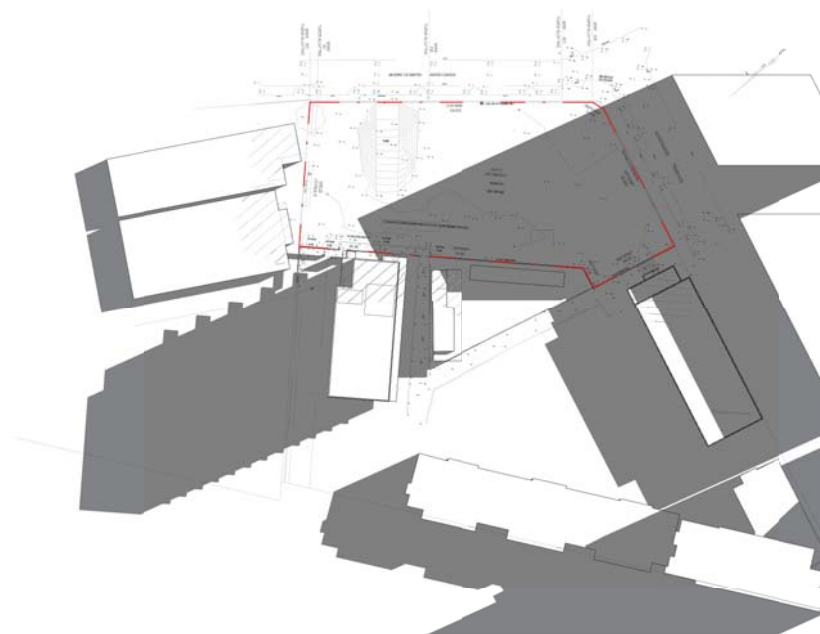
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DRAWN: KKC	
SCALE: 1 : 200	DWG No. 23 B
BY: RG	

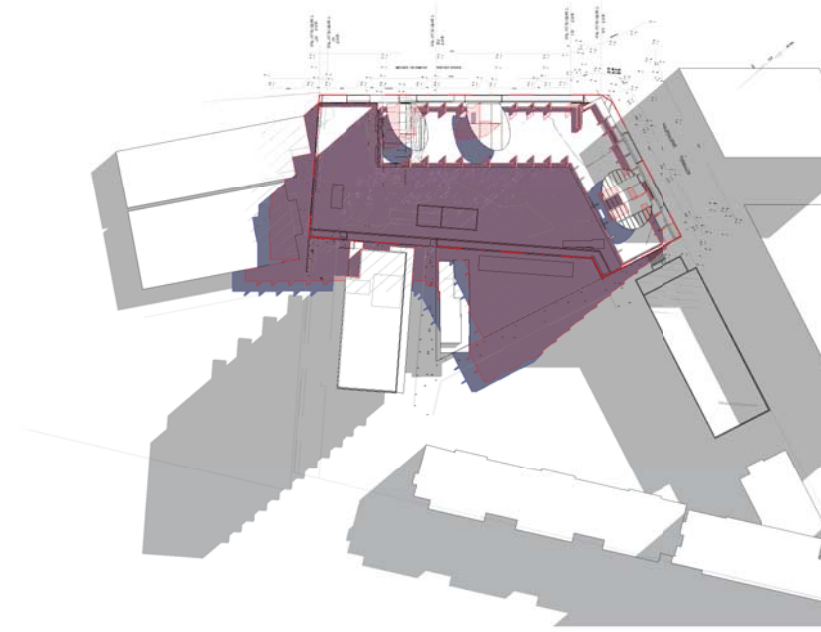
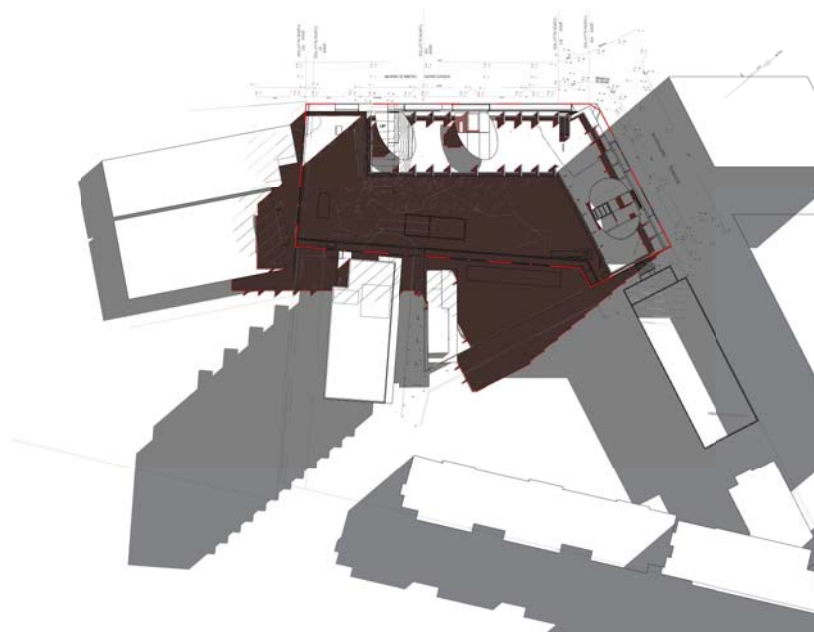
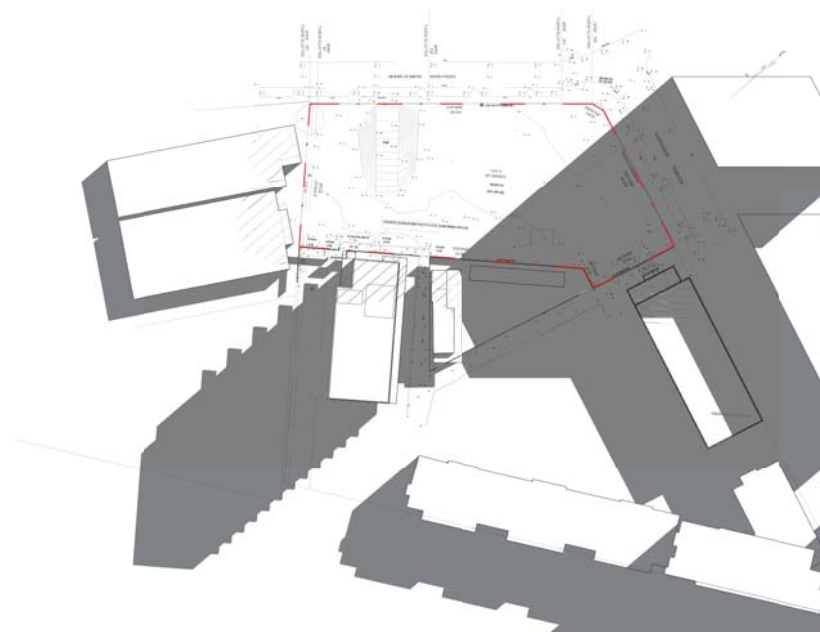
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KEY



REF.	DATE	AMENDMENT
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1001	FACE BROOKS'S	00	DOOR COMPIRES	00	CEILINGURE WINDOW	CT	CERAMIC TILES
1002	FACE BROOKS'S	00	WALLING BATTENS	00	WALLING BATTENS	CT	CERAMIC TILES
00	BROOKS'S	00	DOOR	SC	BRIGHTLIGHT	CT	POURED CONCRETE
00	CLADDING	00	CLADDING	WM	WOODWORK	CT	POURED CONCRETE
0030	GLAZING	00	SLIDING DOOR	LV	LAUNDRY	CT	FOURTH FLOOR
00	GLAZING	00	GLAZING	00	GLAZING	CT	FOURTH FLOOR

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This drawing has been created and verified by all dimensions on site for convenience of use only. Quantity of the work is not guaranteed. The client is responsible for the accuracy of the information provided. The client is responsible for the accuracy of the information provided. The client is responsible for the accuracy of the information provided.

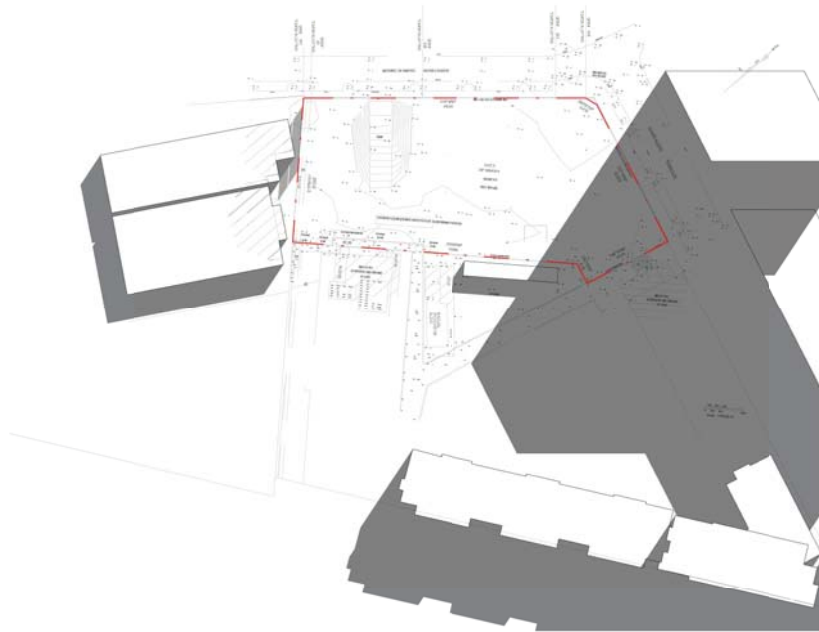
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Email: info@designworkshop.com.au
Web: <http://www.designworkshop.com.au>
Nominated Architect: Robert Guzi (Reg. 828)

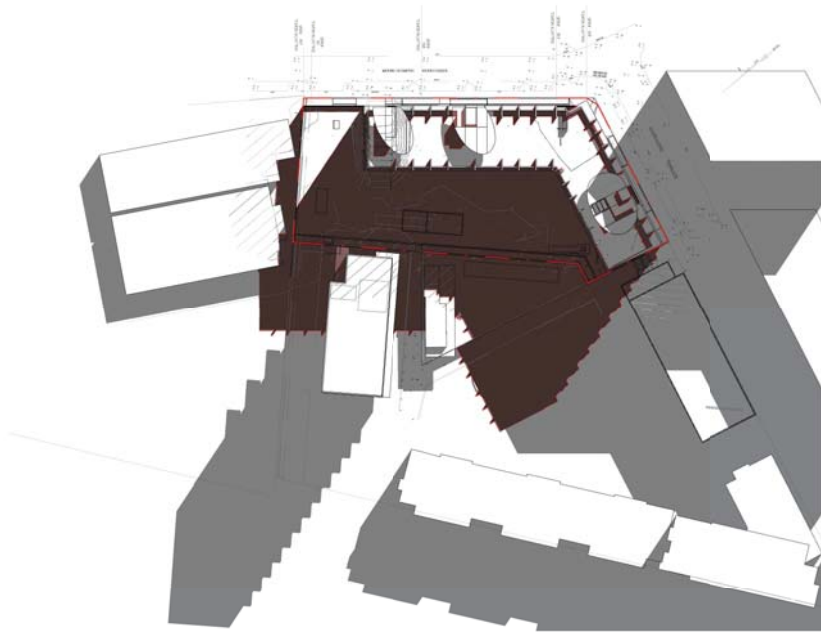
CLIENT:	TQM PTY LIMITED MIXED USE DEVELOPMENT
ADDRESS:	LOT 2, DP 1064374 4 MAGDALENE TERRACE WOLLI CREEK
DRAWING NAME:	OVERLAYING SHADOWS - JUNE

SECTION 96	
DATE: JUNE 15	PROJECT No. 152
DRAWN: Author	
SCALE: 1 : 1000	DWG No. 34 G
QA: Checker	

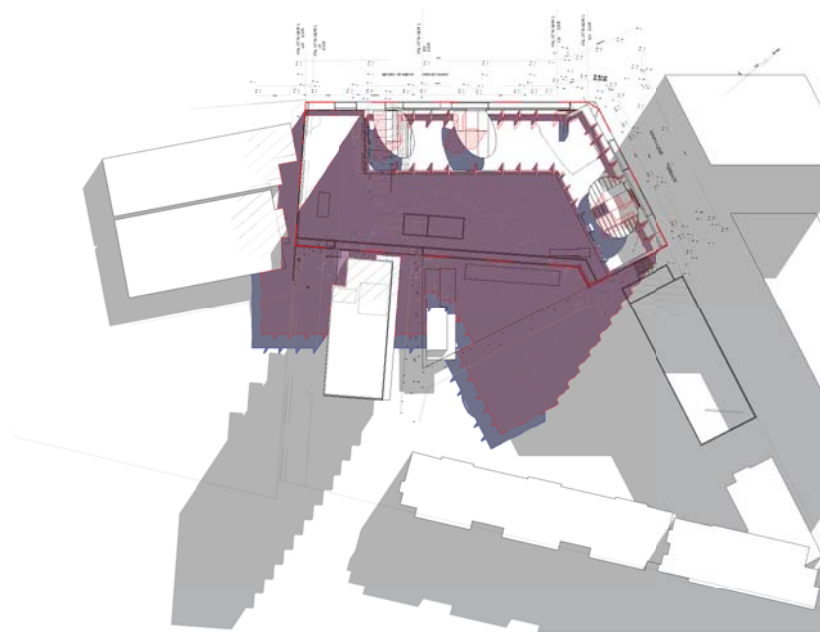
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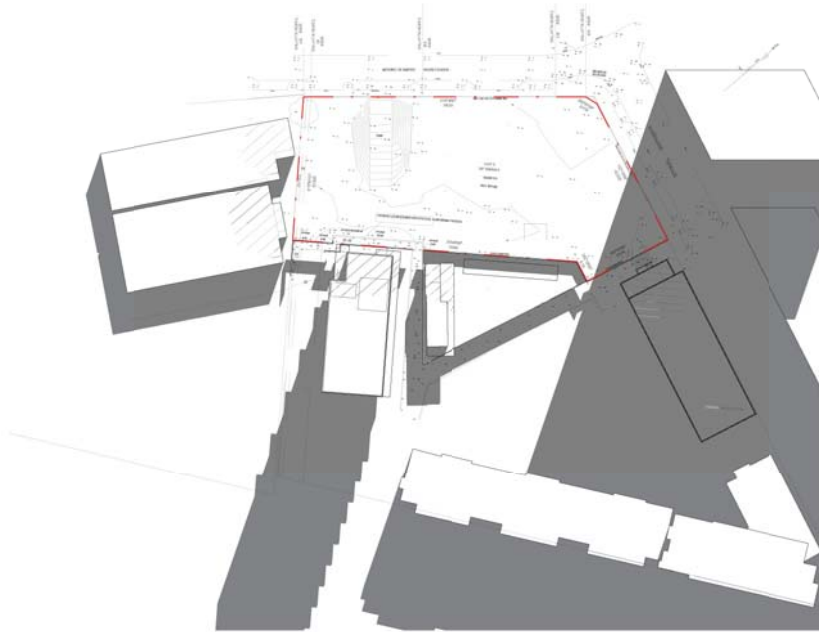
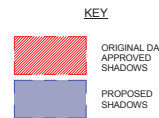
EXISTING SURROUNDING SHADOWS
22nd JUNE 1pm



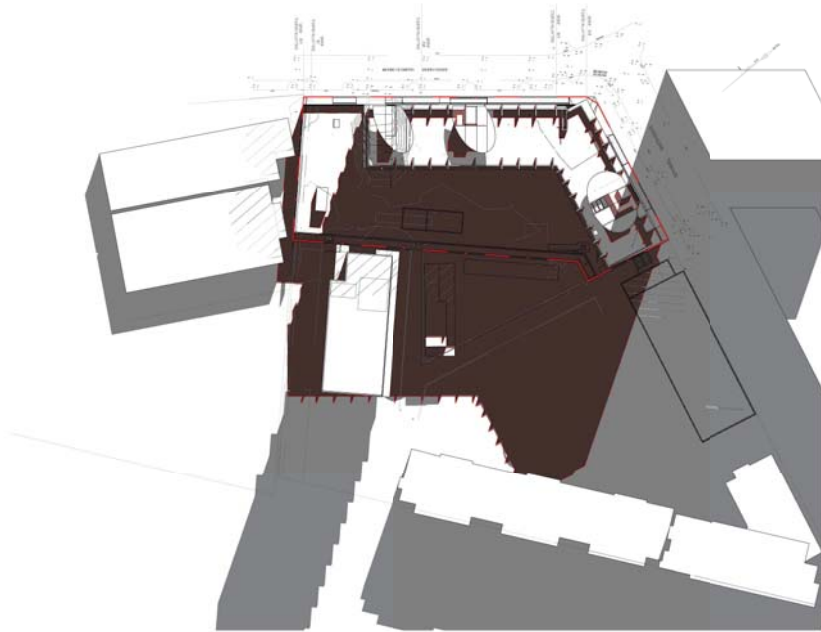
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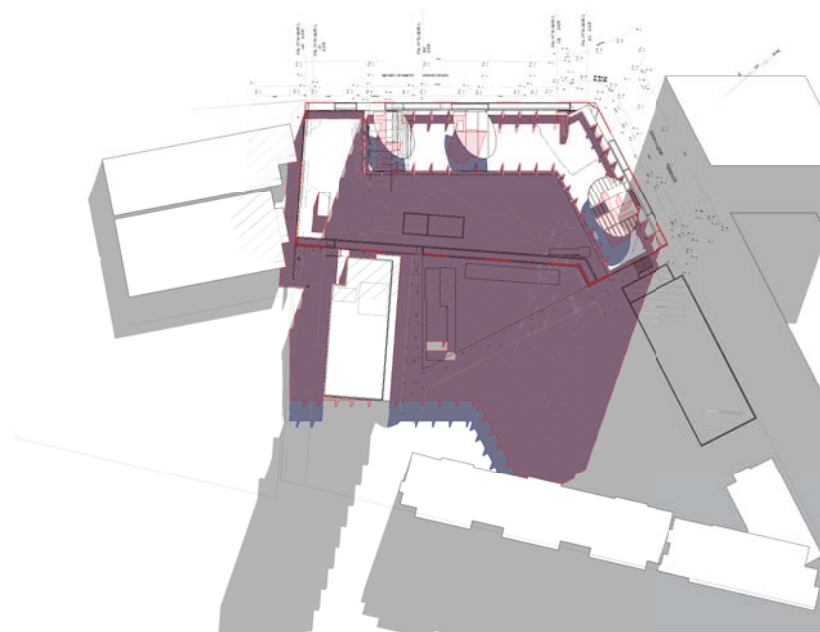
PROPOSED SHADOWS
22nd JUNE 1pm



EXISTING SURROUNDING SHADOWS
22nd JUNE 2pm



APPROVED SHADOWS
22nd JUNE 2pm



PROPOSED SHADOWS
22nd JUNE 2pm

REF	DATE	AMENDMENT
01	15/02/2018	SHADOWS REVIEW

Legend:

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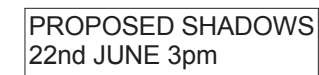
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Web: <http://www.designworkshop.com.au>
Non-Residential Architect: Robert Goss (Reg. 8286)

CLIENT:	TOM PTY LIMITED MIXED USE DEVELOPMENT	DATE:	JUNE 15	PROJECT No:	1520
ADDRESS:	LOT 2, DP 1064374 4 MAGDALENE TERRACE WOLLI CREEK	DRAWN BY:	KAC	SCALE:	1 : 1000
DRAWING NAME:	OVERLAYING SHADOWS - JUNE	QA:	RG	DWG No:	35 G



 <p>Wollongong 81a Princes Highway, Fairy Meadow Tel: (02) 4227 1861 P.O. Box 5991, Balgownie NSW 2519 Sydney Suite 704, 31 Market Street, Sydney</p>	<p>Email: info@designworkshop.com.au Web: www.designworkshop.com.au Nominated Architect: Robert Guzz (Reg. 8206)</p>	CLIENT:	TQM PTY LIMITED MIXED USE DEVELOPMENT	DATE:	JUNE 15	PROJECT NO:	1502		
		ADDRESS:	LOT 2 DP 1064374 4 MAGDALENE TERRACE WOLLI CREEK	DRAWN:	Author	SCALE:	1: 1000	DWG NO:	36 G
		DRAWING NAME:	OVERLAYING SHADOWS - JUNE	QA:	Checker				

ROCKDALE CITY COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/66
Date of Receipt:	18 August 2015
Property:	4 Magdalene Terrace, WOLLI CREEK NSW 2205 Lot 2 DP 1064374
Owner:	Maroun Pty Ltd
Applicant:	Design Workshop Australia
Proposal:	Integrated Development - Construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area
Recommendation:	Deferred commencement
No. of submissions:	19
Author:	Fiona Prodromou
Date of Report:	14 June 2016

Key Issues

The subject site is located within the Wollie Creek Town Centre and is zoned B4 - Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011).

The property is subject to an existing approval (DA-2011/461) for the *'construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage'*. The subject application has been conditioned to incorporate relevant conditions from the previous approval and incorporates conditions relating to the approved Aldi i.e. trolleys, car parking allocation, signage etc. The proposal has further been conditioned to require the surrender of this previous approval.

The proposal seeks to undertake modifications to the ground level retail component of the approved development to facilitate access to proposed upper levels, provide additional basement levels and carparking for the proposed residential use and construct residential units and associated communal spaces above. The proposed shop top housing is permissible within the subject zone with the consent of Council.

The site is located on the south western corner of Magdalene Terrace and Mount Olympus Boulevard. The site area is approximately 3,656 sq.m, has been excavated and is currently vacant albeit for site sheds and construction machinery. The site is surrounded by high rise developments with commercial at ground floor and residential above, ranging from 5 - 21 storeys in height.

The existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3.0RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below the constructed footpath level.

The proposal seeks to vary the required building separation requirements of the Apartment Design Guide with respect to Building E of the Proximity Development and provide in excess of 8 units off a single corridor. The proposed separation distance with Building E and circulation spaces however have been assessed on their merits and deemed acceptable for the reasons outlined within this report.

The proposal seeks to vary the maximum 31m height limit on site by between 0.8m - 4.6m. A Clause 4.6 - Exceptions to Development Standards has been submitted by the applicant and is supported in this instance for the reasons discussed within this report. The overall bulk, scale and massing of the development is deemed to be satisfactory.

The proposal indicates variations to the requirements of DCP 2011 with respect to unit mix, number of storeys and building elements protruding into the articulation zone. These matters have been discussed further and supported within the planning report.

The development application was notified on one occasion in accordance with Council's Development Control Plan 2011. A total of 13 submissions were received opposing the proposal following the public notification period.

Following the receipt of amended plans, these were not re notified in accordance with DCP 2011 but were publicly available on Council's website and an additional 6 submissions were received. Accordingly a total of 19 submissions opposing the application were received by Council. The issues raised in the submissions received by Council include but are not limited to non compliance with the master-plan for the site, missing car parking spaces for the Proximity development, overshadowing, privacy impacts, alleged unauthorized works, alleged damage to proximity development, inadequate building separation, traffic impacts etc. These issues have been further explained in the body of this report.

The proposal is recommended for a Deferred Commencement approval subject to compliance with the requirements of Sydney Trains.

Recommendation

1. That Council 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 DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent is not to operate until the Applicant provides Council with proof of the following:

Approval / certification is to be obtained from Sydney Trains on the following items:

- 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.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

3. That the NSW Department of Planning and Environment be advised of Council's decision.
4. That the objectors be notified of Council's decision.

Background

History

On the 10th October 2001, Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4. This condition also allocates the floor space within the development site.

The below diagram is indicative of the approved master plan. Under the approved Master Plan the future building to be constructed upon 'Block C' (the subject site) within figure 1 was to be entirely commercial.

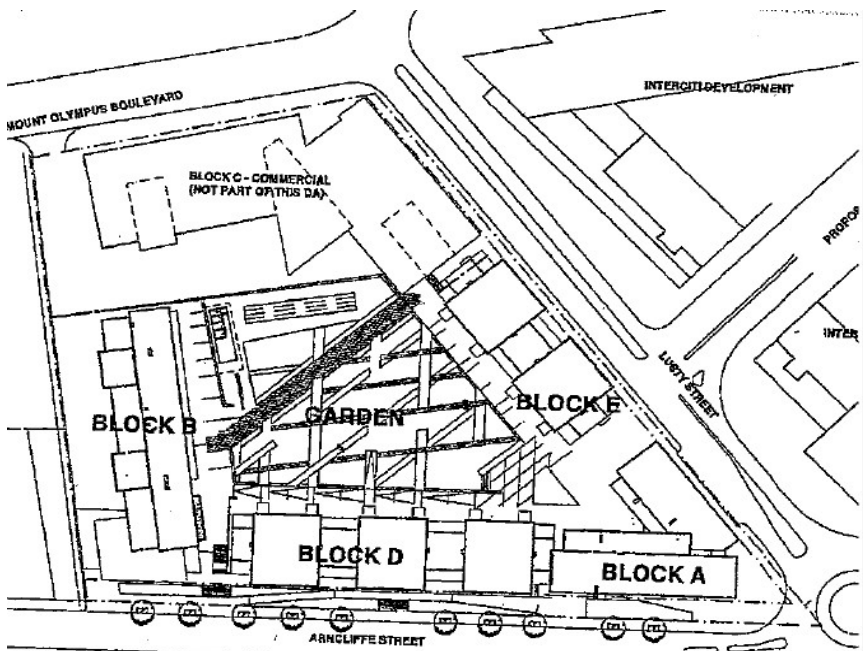


Figure 1 - 2001 approved Master Plan

On the 2nd October 2002, DA-2002/1243 was approved by Council. This DA incorporated Stage 1 of the redevelopment of the site within the diagram above and included the construction of four buildings to a height of 5 - 21 storeys to comprise a mixed use development known as "Proximity" being blocks A / B / D / E.

An application to modify the Stage 1 consent (DA-2002/1243) under S96 of the Act was lodged with Council on 19 December 2003. This application (DA-2004/681) requested amongst other amendments, the deletion of condition 26 which related to a requirement for 31 additional visitor car spaces for stage 1 to be provided in the construction of Stage 2 of the development. This S96 application was approved on 23 January 2004 under Delegated Authority.

To allow access from Block B to Block C, in order to access the visitor car spaces to be provided in the redevelopment of Block C, there was an easement in favour of site C, over building B, and a temporary wall was constructed on the south western corner of Building B, where it interfaces with the south eastern corner of Site C, which could later be removed upon the construction of the podium level to site C.

DA-2004/681 to modify conditions 2/26/27 of DA-2002/1243. Approved under delegated authority on 7 May 2004.

DA-2001/1026/A - amendment to master plan consent, being the relocation of single retail tenancy was approved 29 July 2004.

DA-2001/1026/B - amendment to master plan consent, amended plans for the site were approved on 16 October 2001.

DA-2001/1026/C — amendment to master plan consent, variation of floor space allocated to commercial and retail uses to facilitate the use of part of the ground floor for an ALDI supermarket. Approved 16 June 2010. The allocation of floor space is as follows:

Residential	25,632
-------------	--------

Commercial	9,730
Retail	3,837
Flexible floor space	2,990

DA-2010/216 – Temporary use of site for storage of building materials approved by Council 21 January 2010.

DA-2011/461 - Stage 2 - Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage. Approved 13 September 2012. This DA approved the podium levels of the development at 10.8RL, this is 2.4m higher than the garden / pool level of the adjoining Proximity development.

It is noted that in order to mitigate the extend of the variation in levels between the two developments, DA-2011/461 was approved with a stepped landscaped planter at 9.8RL running along the eastern boundary of the subject site, spanning the length of the garden / pool area of the Proximity Development. The approved podium on the subject site comprised a level of 10.8RL. This level is retained as previously approved in the current application.

Pre DA for subject site was reviewed by the Design Review Panel on 9 April 2015.

DA-2016/66 - Integrated Development - Construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey with roof top communal area mixed use development, submitted to Council on 18 August 2015.

DA-2016/66 was publicly notified from 9th September - 9th October 2015.

Final amended plans submitted to Council 21 March 2016.

Proposal

The proposal seeks to undertake the construction of 100 residential dwellings (2 x studio / 13 x 1 bed / 14 x 1 bed + study / 56 x 2 bed / 1 x 2 bed + study/ 7 x 3 bed / 7 x 3 bed + study) above previously approved ground floor retail / commercial premises and incorporates the addition of one and a half basement levels and a roof top communal open space area to create a nine (9) storey with mixed use development on site.

The proposal undertakes minor internal reconfiguration of the previously approved basement car parking levels, incorporates a dual lift core and incorporates as follows:

Basement 1 (Approved level 1.8RL) (Commercial Car Parking)

Proposed level of 2RL, 58 commercial car spaces (for approved retail / commercial development DA-2011/461) incorporating 9 accessible spaces, 6 bicycle spaces 2 motorbike spaces, pedestrian and vehicular circulation, good lift, lift access, trolley bays, services, plant rooms, commercial store rooms, fire exits and associated loading / unloading zones.

Basement 2 (Approved Level 1.2RL) (Visitor Car Parking)

Proposed level of -0.8RL, 52 visitor car spaces incorporating 9 accessible spaces, 1 designated car wash bay, 12 bicycle spaces, 6 motorbike spaces, pedestrian and vehicular circulation, good lift, lift access, fire exits, two loading / unloading zones, garbage compactors, bin enclosures, services and plant rooms.

Basement 3 (Approved Level -4.2RL) Residential Car Parking

Proposed level -3.6RL, 59 residential car spaces incorporating 9 accessible, 12 bicycle spaces, 6 motorbike spaces, residential store rooms, pedestrian and vehicular circulation, lift access, fire exits, two loading / unloading zones, garbage compactors, bin enclosures, services and plant rooms.

Proposed Basement 4 (-6.4RL) (Residential Car Parking)

24 residential car spaces, 12 bicycle spaces, 6 motorbike spaces, residential store rooms, pedestrian and vehicular circulation, lift access, fire exits, loading / unloading zone, services and plant rooms.

Ground Level (4.9RL - 5.4RL Approved levels)

Aldi supermarket tenancy, 5 x retail tenancies with service corridor behind shops, direct vehicular access to loading dock from Mount Olympus Boulevard, vehicular access to basement, hydrants / boosters to Mount Olympus Boulevard frontage, substation / kiosk to Magdalene Terrace frontage, associated ramp to basement level car park, goods and trolley lift, retail garbage room and plant.

Proposed works at ground level include two newly proposed residential lobbies one to Mount Olympus Boulevard with a dual lift core. A residential lobby is proposed to the Magdalene Terrace frontage of the site with provision for a single lift.

Mezzanine (Approved level 7.6RL)

Proposed level 7.6RL, incorporating fire services tank, hydrant and sprinkler pump room. Void space above supermarket tenancy.

Level 1 (Podium) (Approved level 10.8RL)

Previously approved exhaust duct, supermarket plant and service riser. Proposed level 10.8RL. 23 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes, internal communal meeting room, corridor to communal open space.

Communal open space at podium level incorporates a range of natural planting trees and ground covers, portions of artificial turf, paving, timber walkways, green walls to previously approved exhausts/services risers, childrens play area with rubber soft fall, swimming pool, steel/timber pergola structures and seating areas.

Level 2 (Proposed Level 13.8RL)

2 studio units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes. Associated habitable areas linked to 23 units below at Level 1.

Levels 3 - 4 (Proposed Level 16.8RL / 19.8RL)

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

Levels 5 - 6 (Proposed Level 22.8RL / 25.8RL)

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

Levels 7-8 (Proposed Level 28.8RL / 31.8RL)

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

Rooftop (Proposed level 34.8RL)

Communal open space, recessed in from building edges, incorporating a range of planting, seating, toilet, kitchen and bbq facilities and pergola structures for use by future occupants.



Figure 2 - Photo montage of proposed development from junction of Magdalene Terrace and Mount Olympus Boulevard



Figure 3 - Perspective of podium communal open space area



Figure 4 - Perspective of rooftop communal open space area

Site location and context

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard. The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. The site has been excavated and is currently vacant albeit for site sheds and construction machinery. There are no significant trees on the site, however a large tree is located adjacent to the site at 16 Guess Avenue, Wolli Creek.

It is noted that the existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below constructed footpath level.

The 'Proximity' development adjoins the subject property along its eastern boundary. Buildings within Proximity comprise shop top housing above ground level retail uses. A number of established building forms exist within the Proximity site as follows:

- Block E - directly adjoins the proposed development to the east and fronts Magdalene Terrace. Block E is 5 storeys in height with a maximum 21RL.
- Block A - is located at the junction of Magdalene Terrace and Arncliffe Street, it is the highest building within the Proximity Development, 21 storeys in height with a 66.25RL.
- Block D - fronts Arncliffe Street and is 5 storeys in height with a maximum 21RL.
- Block B - is oriented east / west within the Proximity site and is 14 storeys in height with a maximum 51.4RL.

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. Two mixed use buildings are nearing completion directly opposite the subject site and Block E within the 'Proximity' development, being Building 5 which is 18 storeys with a maximum 61.10RL and Building 3 which is 10 storeys with a maximum 36.95RL.

On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.

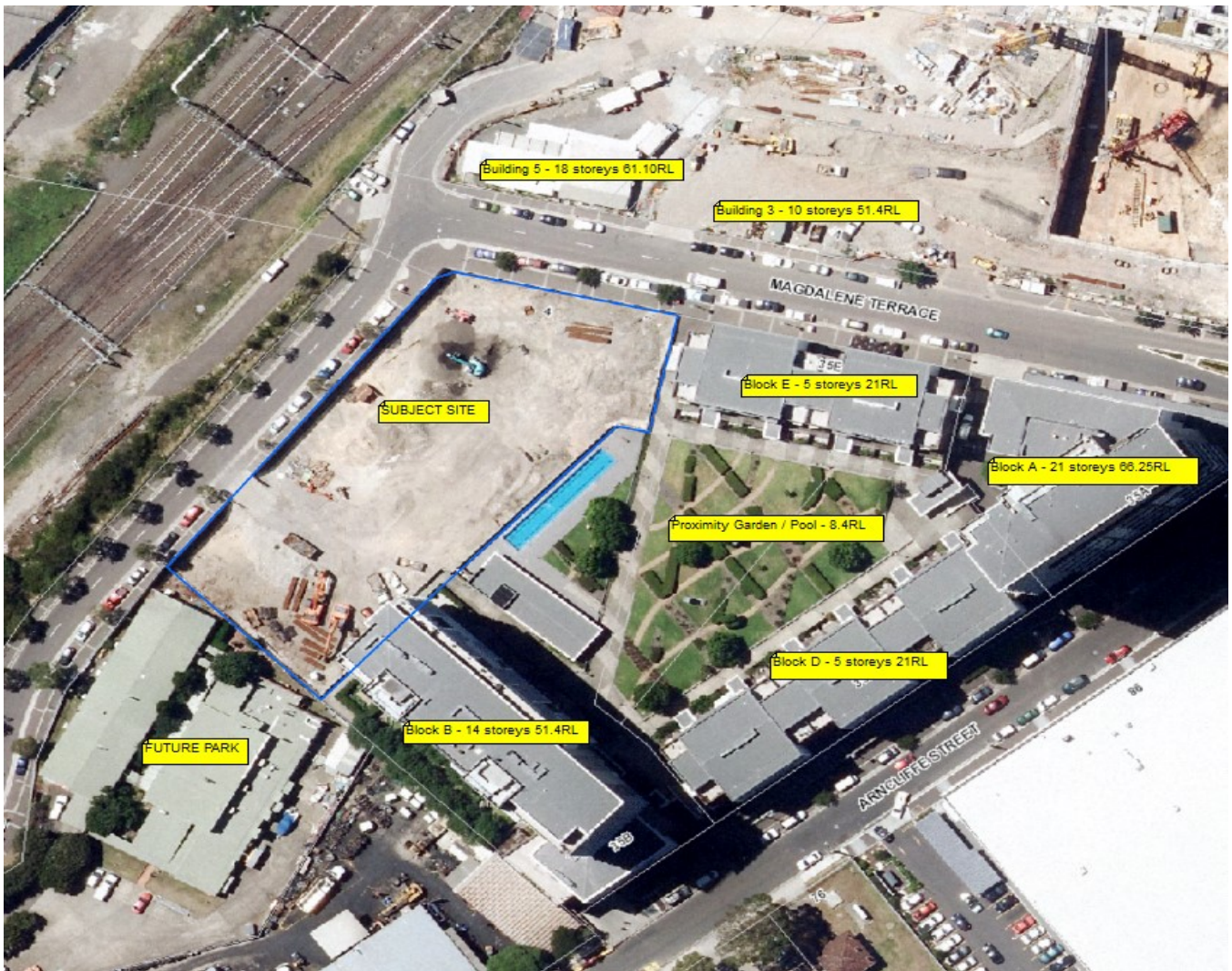


Figure 5 - Aerial Context

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. However, this site has been rezoned under RLEP2011 as RE1 – Public recreation.



Figure 6 - Subject Site and eastern neighbour 'Proximity'

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 proposed development constitutes Integrated Development and requires approval from the NSW Office of Water. The proposal has been referred to the aforementioned agency and general terms of approval (GTA) have been granted. The conditions of the GTA have been incorporated in 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 641848M_03. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 20
 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

Division 15 - Development in or adjacent to Railway Corridors

Clause 86 - Excavation in, above or adjacent to rail corridors

Proposed development that involves ground penetration at least 2m depth that is within 25m of a rail corridor, requires concurrence from Sydney Trains.

Comment: The proposal involves excavation within 25 metres of the East Hills rail corridor. The proposal was referred to Sydney Trains who raised no objection in relation to the proposed development, yet imposed deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations.

Clause 87 - Impact of rail noise or vibration on non-rail development

A building for residential use adjacent to a rail corridor requires that measures are taken to limit LAeq (equivalent continuous noise levels) and they are not exceeded:

- (3)(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

Comment: An Acoustic Report has been prepared by "The Acoustic Group" dated 24/07/2015 and submitted with the application. The report considers the potential impact of railway noise to residential dwellings and recommends measures to ensure that these levels are not exceeded. In this regard the proposal is considered satisfactory and the proposal has been conditioned accordingly.

State Environmental Planning Policy No 55—Remediation of Land

A site validation report prepared by Environmental Investigations dated January 2014 ref. E22471 AB was submitted to Council with the application. The findings of the report confirmed that tested samples from the excavation level comprised natural sandy clays. Based on the findings of the report E22471 AB, Environmental Investigations concluded that the human health and environmental risks at the site are low and that the soils and groundwater are suitable for proposed use of the site for commercial and residential purposes. The proposal has been conditioned to include the recommendations of the above stated report which required the preparation of a remediation action plan. The proposal satisfies the requirements of SEPP 55.

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)

Prior to the lodgement of the application as a formal DA, the preliminary scheme was reviewed by the Design Review Panel on 9th April 2015. The development application was subsequently reviewed by the Design Review Panel on 1st October 2015. The DRP raised concerns in relation to bare walled service structures at podium level, lack of lifts to residential levels, mix of adaptable units, amenity to

snorkel bedrooms, visual privacy impacts on site, and appearance of the development. The DRP further recommended the addition of a rooftop communal open space area on site. These matters have been discussed in detail below.

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

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

Principle 1 – Context and Neighborhood Character

The DRP noted that the site is within the Wolli Creek precinct and *'includes a supermarket - already approved and under construction and an approved envelope above. To the south will be a new park, to its east and south are existing mixed use buildings and to its west is the railway line.'*

Comment: The proposal has been designed to fit comfortably within the approved streetscape and surrounding context of development which range in height from 5-21 storeys. The proposal is consistent with the nature of approvals and overall building heights contextually surrounding the site. The immediately surrounding area is undergoing change from a relatively low density industrial area to a high density residential area to take advantage of the proximity to Wolli Creek railway station. The proposal relates satisfactorily to the existing and emerging context in addition to the approved and future desired neighborhood character of Wolli Creek.

Principle 2 – Built Form and Scale

The DRP considered that the proposed scale of the development was acceptable. It was stated that the *"introduction of vertical connections to the rooftop garden has improved the façade articulation and assisted in breaking up the long horizontal mass"*

Comment: The scale and massing of the development fits appropriately with established and emerging developments to the north and east of the subject site. The proposed development is consistent with the scale of existing and emerging contextual development and is generally consistent with the desired bulk and scale of development for the Wolli Creek precinct.

The DRP noted that *"while the retail shop has been amended to turn the corner, the existing up-stand wall to the adjacent property interrupts the shop front entry circulation space. The substation has remained and significantly constrains the retail frontage. The reconfiguration of this corner is required to improve visual access to the retail tenancy. This would also improve its viability as a retail space. There are numerous other examples of elements appearing not to have been resolved in detail, especially at podium level where plant, exhaust duct and service riser appear to clash with landscape proposals. This still remains an issue. It is recommended that a garden bed and green wall planting be located adjacent to the proposed vent to hide the exhaust duct and service riser where possible."*

Comment: Plans have been amended to provide for full height glazing to the eastern wall of Retail shop A, adjoining the Proximity stairwell to Magdalene Terrace. The provision of floor to ceiling glazing will ensure visibility is retained and a safe environment is provided in vicinity of this premises. The substation has been retained in the original location as initially approved.

Revised plans have resolved clashes between landscaping and services as noted by the DRP with green walls proposed to previously approved bare walled service structures at podium level. This will ensure visual amenity from the neighbouring Proximity communal garden area is maximized and services are obscured.

The Panel reiterated *"concerns about the lack of lifts for a building of this size. Two lifts per core would be expected for a building of this size if the previous supermarket approval were not in place. The change in use from a commercial building to a residential building warrants the additional lifts."*

Comment: Revised plans indicate that an additional lift is proposed within the development. A total of three lifts are now proposed, this is considered to be satisfactory.

The Panel recommended that the *"communal open space access and communal meeting room be aligned with the lift lobbies to provide direct visual and physical access"*.

Comment: Revised plans illustrate that the communal room at podium level is now aligned with the lift lobby and provides direct visual and physical access to the podium level communal open space as recommended by the DRP.

Principle 3 – Density

The DRP considered that the *'proposed density of the development was acceptable subject to compliance with the FSR control'*.

Comment: The proposed development complies with the FSR controls for the subject site. The proposal has been designed with appropriate modulation and building depth which allows for proposed residential units to obtain appropriate solar access and ventilation. The proposed density is capable of being accommodated upon the subject site without resulting in adverse environmental planning impacts within the site or to neighbours. The proposed development has been designed to respond to its existing and emerging context and satisfies this principle.

Principle 4 - Sustainability

The DRP stated that *'no other notable sustainability features appear to have been incorporated beyond plumbing fittings etc.'*

Comment: The proposed development provides optimal solar access and cross ventilation to units, with generous landscaped areas on site. The proposal was accompanied by a BASIX certificate which confirms energy efficiency measures proposed to be implemented on site. Additionally plans have been revised to provide and illustrate the location of a 50 000 litre rainwater tank on site. The proposal is satisfactory with respect to this principle.

Principle 5 – Landscape

The DRP noted that *"exhaust plant enclosure at podium level should be screened, with a rooftop communal open space area provided on site, with appropriate facilities including kitchen, toilet, bbq and shade structures"*.

Comment: It is reiterated that revised plans illustrate green walls to previously approved bare walled service structures at podium level. This will obscure and screen these aspects of the development and maximize visual amenity from the neighbouring Proximity communal garden area. Plans have further been revised to incorporate a rooftop communal open space area with appropriate facilities and shade structures as recommended by the DRP. The proposal is satisfactory with respect of this principle.

Principle 6 – Amenity

The DRP notes that *'Snorkel bedrooms in units 3 and 5 have poor amenity and are to be reconfigured and that overlooking from the elevated pool to adjacent bedroom windows should be reviewed.'*

Comment: Plans have been revised to delete the majority of snorkel bedrooms. Where these have been retained, the area of the 'snorkel' has been widened and incorporates floor to ceiling glazing and a study nook in order to maximize the use of this space and provide for appropriate solar access and outlook to the subject bedroom as can be seen below.

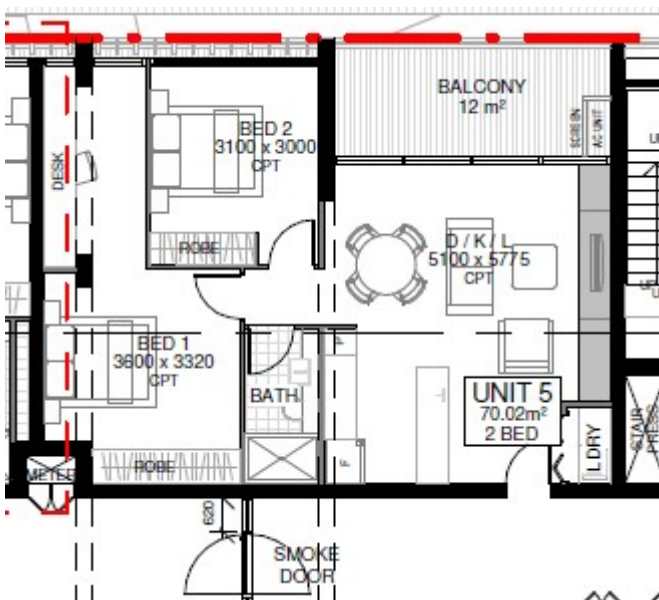


Figure 7 - Example of revised snorkel bedroom

Further to the above it is noted that the proposed development satisfies the solar access and cross ventilation requirements of the SEPP and ADG. Units, habitable rooms and balconies are of adequate size and dimensions and appropriate storage has been provided within dwellings. Two communal open space areas are provided on site, at podium and rooftop levels, with varied outdoor spaces which will encourage social interaction between future occupants. The proposal as designed will ensure that a satisfactory level of amenity is afforded to future residents, in addition to the future residents of adjoining sites.

Principle 7 - Safety

The development provides two prominent and clearly identifiable residential building entries to both Magdalene Terrace and Mount Olympus Boulevard, which comprise direct pedestrian access, generous lobbies and provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are

proposed to be well lit with clearly defined pathways.

The proposal will be conditioned to require the provision of CCTV security cameras at residential entries and basement levels, with clear directional signage to be provided on site to advise users of security measures in place. The proposal is satisfactory in regards to the requirements of this principle and was supported by the DRP in this regard.

Principle 8 - Housing Diversity and Social Interaction

The DRP noted that all adaptable units within the development were 1 bedroom. The DRP recommended that the *'provision of adaptable units should match the unit mix across the building.'*

Comment: Revised plans have incorporated a mix of adaptable units within the development, ranging from 1 - 3 bedroom adaptable dwellings. The design of the development and proposed unit mix provides for varied housing choice for a variety of household types. The development is designed to provide two appropriate communal facilities at podium and rooftop level with various spaces including bbq, lawn and childrens playground area, which will encourage and provide opportunities for social interaction between future occupants.

Principle 9 – Aesthetics

The Panel supported the *'orthogonal façade approach but is concerned about the quality of outlook from rooms behind vertical screens and the over-reliance on movable screen elements. Vertical screen elements should ideally be limited to bedrooms and respond to orientation.'*

Comment: Aluminium and timber louvres as proposed to balconies upon the facades of the proposed development are designed to be fully adjustable and stackable. This allows future occupants to adjust screening elements as necessary in response to their preference and in line with the orientation of the dwellings. The proposed screening varies between timber and aluminium to provide visual interest and is not deemed to be unreasonable.

The DRP further noted that *'the materials proposed for the podium should be reviewed to better integrate with the residential component of the building.'*

Comment: Materials and colours at podium level are provided as per the submitted schedule of colours and finishes below, these are satisfactory and will ensure the entire development presents as a unified building form. To ensure the finishes and materials of the podium facade to the future park are appropriate, the proposal has been conditioned to require the submission and approval by Council of the final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building are required to be included.

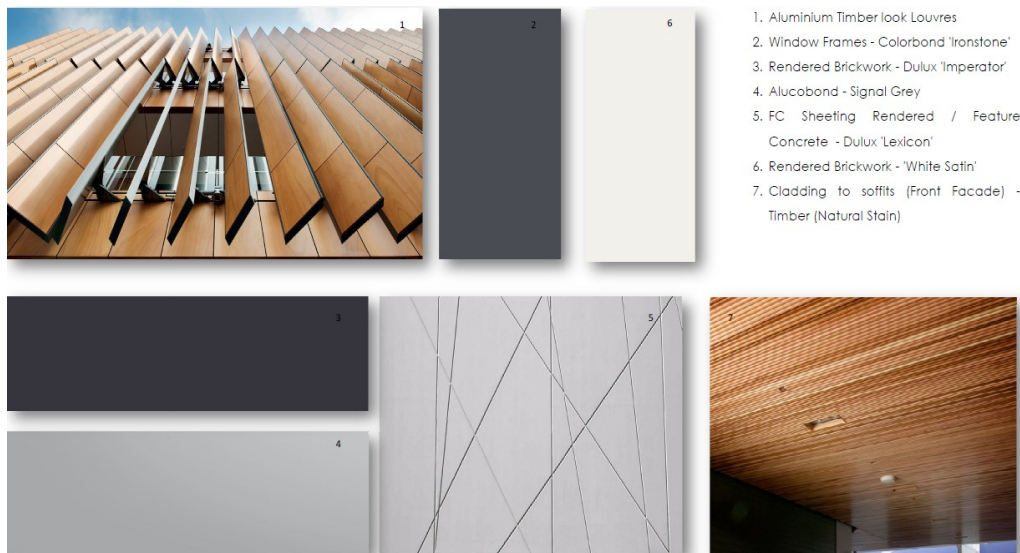


Figure 8 - Schedule colours and finishes

The DRP further noted that the *'street awning should continue across the entry to the supermarket and connect between Magdalene Terrace and Mt Olympus Boulevard. The podium façade to the future park should be amended to provide material variation and/or colour variation to provide interest as this will be highly visible in the short and long term'*.

Comment: Plans have been amended to provide a continuous awning where possible across the frontage of the site. The awning is not provided above the substation at the Magdalene Terrace frontage and loading / unloading bay to Mount Olympus Boulevard, as a result of limitations with respect to relevant access requirements to these locations.

c. the Apartment Design Guide

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

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLI
3D - Communal Open Space	25% (913.5sq/m) Site Area 50% Direct sunlight to principle useable part of COS for minimum 2 hours between 9am - 3pm in midwinter	See discussion below.	Partial
3J - Bicycle and car parking	Minimum carparking requirements are set out by the ADG. Maximum car parking requirements are set out by Rockdale DCP 2011. The applicant has chosen to provide the maximum car parking permitted on the site in accordance with the rates set out in Rockdale DCP 2011.	Refer to Part 4.6 - Parking Rates of this report.	Yes

4D – Apartment size and layout	Apartment type		Minimum internal area		Studio – 40sq/m 1 bed – 50sq/m - 62sq/m 2 bed – 70sq/m - 84sq/m 3 bed – 96sq/m -140sq/m	Yes Yes Yes Yes		
	Studio		35m ²					
	1 bedroom		50m ²					
	2 bedroom		70m ²					
	3 bedroom		90m ²					
4C – Ceiling heights	Minimum ceiling heights:				2.7m floor to ceiling to all residential levels including Level 1. This is deemed to be satisfactory at level 1, given the provision of substantial commercial floor space at ground level and the unlikely use of the first floor for commercial purposes following any strata subdivision of the development.	Yes - excluding level 1.		
	Habitable		2.7m					
	Non-habitable		2.4m					
	Two storey apartments		2.7m main living 2.4m first floor, area < 50% of apartment area					
	Mixed use area		3.3m for ground and first floor					
3F Visual Privacy	Building height		Habitable rooms and balconies		Non habitable rooms		4.5m separation with Levels 1 - 4 of Building E of Proximity Development fronting Magdalene Terrace. 9m separation with Level 5 of Building E of Proximity Development fronting Magdalene Terrace. 21.8m building separation from eastern facade of development to western wall of Building B within Proximity Development.	No - see discussion below. Yes Yes
	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% of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter					96% (96/100) units receive 2 hours solar access in midwinter.	Yes	
	Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter					4% (4/100) units receive nil solar access in midwinter	Yes	
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.					> 8 units off single circulation core	No - see discussion below.	

4E – Private open space and balconies	Primary balconies as follows:			1 bed - 10sq/m - 12sq/m 2 bed - 11sq/m - 15sq/m 3 bed - 11sq/m - 15sq/m Balcony depth > 1m	Yes
	Dwelling type	Minimum area	Minimum depth		Yes
	Studio	4m ²	-		
	1 bed	8m ²	2m		
	2 bed	10m ²	2m		
	3+ bed	12m ²	2.4m		
	Min balcony depth contributing to the balcony area is 1m.				
4B – Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.			75% (75/100) units are cross ventilated	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			17m maximum depth glass line to glass line	Yes
4G – Storage	At least 50% of the required storage is located within apartment			Appropriate fixed storage provided within units and supplementary at basement level for future occupants.	Yes
	Dwelling type	Storage size volume			
	Studio	4m ²			
	1 bed	6M ²			
	2 bed	8m ²			
	3 bed	10m ²			

3D - Communal Open Space

The proposal comprises a total of 2805sq/m communal open space provided in the form of two separate areas. i.e. Podium 1692sq/m / Rooftop 1113sq/m. Communal open space areas on site are well designed, provided with facilities, seating, equitable access and varied spaces for interaction and play.

Solar access to podium communal open space is restricted, given its orientation to the south and south east behind the proposed development. Solar access in midwinter is achieved to the proposed pool at podium level from 12pm onwards in midwinter, yet the majority of the podium communal areas are in shadow in midwinter as a result of the proposed development and adjoining neighbouring high rise developments.

Notwithstanding, the proposed rooftop communal area receives in excess of 2 hours solar access in midwinter given its location. The communal open space areas proposed will provide for appropriate on site amenity for future occupants and the proposed development is considered to satisfy the objectives of 3D - Communal Open Space.

3F - Visual Privacy

As noted in the table above, the proposed development departs from the design criteria of the ADG which recommends a 6m minimum separation between the proposed development and Building E of

the Proximity development fronting Magdalene Terrace. A 1.44m deficiency in building separation exists as proposed. The objective of this part of the ADG is to achieve reasonable levels of external and internal visual privacy between neighbours.

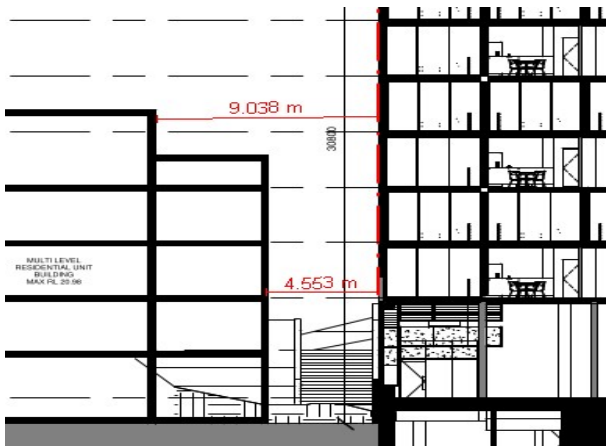


Figure 9 - Building separation with Building E of Proximity Development

A review of the approved floor plans for Building E within the Proximity development illustrates living room, kitchen and bathroom windows to the north western facade of this building at levels 1- 5. Proposed plans indicate the provision of 4 kitchen windows at levels 2/4/6/8 upon the eastern facade of the proposed development, these windows comprise fixed obscure glazing. Additionally full height obscure glazed windows are also proposed to levels 3/5/7, these windows are located at the end of communal corridors within the development.



Figure 10 - NW wall of Building E of Proximity development.

Despite the proposed variation to the building separation design criteria of the ADG, given the above, it is considered that reasonable levels of privacy will be retained between the proposed development and its neighbour Building E. As such the proposal complies with the objectives of this requirement.

4F - Common Circulation and Spaces

The proposal seeks to provide in excess of 8 apartments off a single circulation core to upper residential levels. The proposal indicates a maximum of 15 units off a single corridor to the Mount

Olympus Boulevard portion of the building and 10 units off a single corridor to the Magdalene Terrace portion of the development.

It is noted that lift lobbies within the development are designed as double height spaces with full height glazing to enable solar access to internal circulation areas. Additionally both ends of the common corridors are provided with fire rated windows, which will provide for additional daylight. The proposed circulation spaces within the development are considered to provide reasonable amenity for future occupants and the proposed development satisfies the objectives of this requirement.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 3	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone 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 shop top housing, which constitutes a permissible development only with development consent. The proposal is consistent with the objectives of the zone, providing an appropriate residential component to the site, which is within an accessible location.

4.3 Height of buildings

The existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below footpath level. The effect of this is that it penalizes the subject site when height is to be measured in accordance with the definition of building height as per Rockdale LEP.

If the height limit was taken from the surrounding footpath levels, the 31m LEP height control would be approximately RL36. The proposed parapet height of the development is 34.8RL which is slightly less than the RL35 approved under the masterplan for the subject site. For the purposes of this assessment the height of the development is assessed against the provisions of Rockdale LEP 2011.

The proposal comprises a maximum height as follows:

- 31.8m roof of building (34.8RL)

- 32.92m top of balustrade (35.92RL)
- 33.25m top of vertical feature element to building facades (36.25RL)
- 35.6m top of the lift/stair overrun, single toilet and pergola (38.6RL)

As can be seen above, the proposed development seeks to vary the maximum height limit on site by 0.8m - 4.6m. This is a proposed variation of 2.5% to the roof of the building, 6.1% to rooftop balustrades, 7.2% to vertical architectural rooftop features and 14.8% to the top of the lift / stair overrun and pergola at rooftop level.

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 consistent with the objectives of clause 4.3 - Height of Building for the reasons outlined within Clause 4.6.

4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10 962.9sq/m. The previously approved ground and mezzanine levels comprise a total of 2005sq.m of gross floor area (GFA). The proposed residential levels above comprise a total of 8820sq/m. As such the development as a whole on the subject site comprises a total GFA of 10 825sq/m, with a resultant FSR of 2.96:1 and complies with this requirement. The proposal is satisfactory 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 31m height standard applicable to the subject site as follows:

- 31.8m roof of building (34.8RL)
- 32.92m top of balustrade (35.92RL)
- 33.25m top of vertical feature element to building facades (36.25RL)
- 35.6m top of the lift/stair overrun and pergola (38.6RL)

As can be seen above, the proposed development seeks to vary the maximum height limit on site by 0.8m - 4.6m. This is a proposed variation of 2.5% to the roof of the building, 6.1% to rooftop balustrades, 7.2% to vertical architectural rooftop features and 14.8% to the top of the lift / stair overrun and pergola at rooftop level.

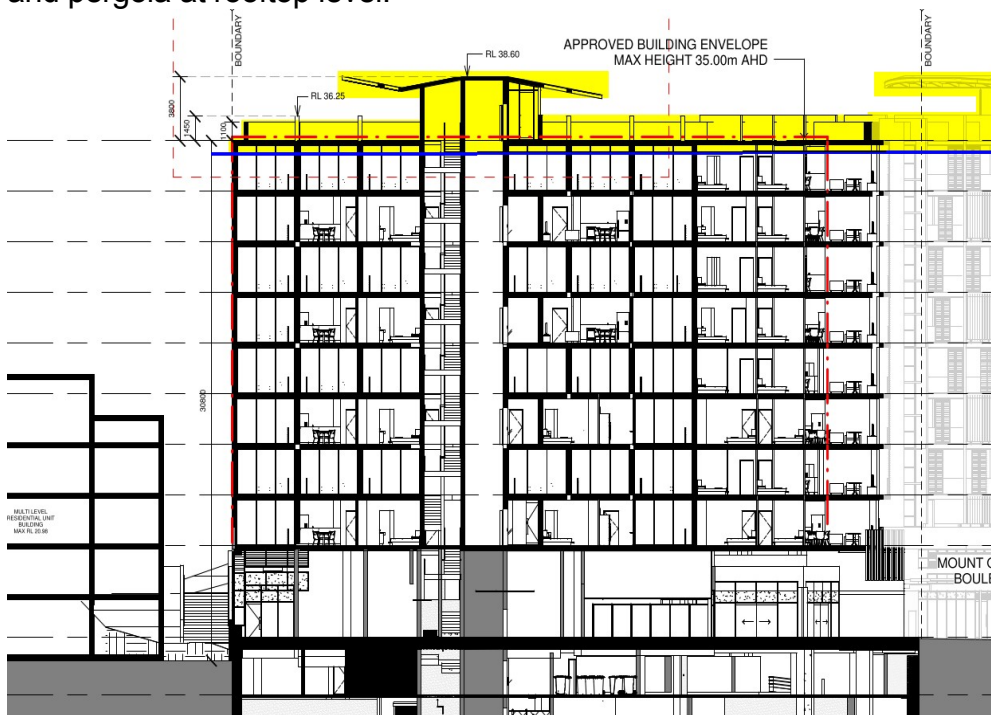


Figure 11 - Proposed height variation above blue line

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;

- *The Master plan Consent for the site approved a building height of 35AHD for the property which equates to 32.6m in overall height. The proposed building generally sits within the approved building envelope of the Master plan.*
- *The existing ground level of the subject site prior to excavation is located 2.8m below footpath level for the majority of the site. Given the approved Master plan had an envelope of 35AHD it is evident that this was meant to be measured from street level.*
- *When measured from street level (5.4RL), the majority of the development is contained within the height limit, with only the lift/stair overruns and canopies exceeding the height.*
- *The height variation occurs primarily in the lift structures and elements which provide access to the rooftop communal open space area which was recommended to be incorporated into the development by the Design Review Panel.*

- *The non compliance largely stems from the requested introduction of communal open space on the roof of the building. The addition of the rooftop communal open space area is for the future enjoyment of residents and improves the appearance of the rooftop when viewed from surrounds.*
- *The proposed building is compatible and comparable with surrounding development.*
- *The 31m height control is not reflective of existing development, inclusive of the adjoining Proximity development ranging in height from 5-21 storeys, clearly exceeding the height control. The validity of the 31m height control has essentially been destroyed or abandoned by virtue of the existing development.*
- *The proposal complies with the objectives of the standard.*
- *The proposed building will not result in significant adverse impacts upon the locality or adjacent residential properties by way of overshadowing, privacy or bulk and scale.*
- *The additional height results in the provision of a communal open space area at rooftop level which provides for a range of passive open space opportunities within the development.*
- *The proposal results in a better planning outcome for the site and accords with the objectives of the B4 - Mixed Use Zone.*
- *The proposed non compliance is not considered to result in any precedents for future development given the site considerations and surrounding pattern of 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 considered that the height variation as proposed is acceptable for the following reasons:

- The natural ground level of the site prior to excavation was generally 3RL. As a result of the flooding constraints of the site a minimum floor level of 3.3RL was required. Notwithstanding existing footpath levels adjoining the site to Magdalene Terrace and Mount Olympus Boulevard range from 5.05RL to 5.29RL. As a result the natural ground level of the subject site is therefore up to 2.05m - 2.29m below footpath level. The original approval for the site was consented to with a raised floor level of 5RL in order to ensure the development remained directly level with and accessible from the public footpath. The aforementioned are site circumstances which directly correlate to the overall height of the proposed development and result in a minor variation (0.8m) to the height of the building to the rooftop.
- The proposed rooftop height of the development is 34.8RL which is slightly less than the RL35 approved under the masterplan for the subject site. The 35AHD requirement is noted given it was adopted as part of the Masterplan and deemed acceptable for the subject site.
- The DRP was supportive of the vertical feature element to building facades stating that the *"introduction of vertical connections to the rooftop garden has improved the façade articulation and assisted in breaking up the long horizontal mass"*. These feature elements could be argued to be an architectural roof feature and therefore be excluded from the calculation of height as per the provisions of clause 5.6 of Rockdale LEP 2011, given they are purely a decorative element, not an advertising structure, do not comprise floor space and will cause minimal overshadowing.
- The proposed rooftop structures 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. 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.

- Proposed balustrades at rooftop level are recessed into the design of the development, minimizing their visual bulk and prominence. The balustrades will not be clearly visible from the public domain at pedestrian level, will not affect the visual perception of the overall built form of the proposed building, nor the land use intensity at the site.
- The proposed area of height non compliance is not considered to result in a size or scale of development that is incompatible with the desired future character of the locality. The proposal is of a height which is commensurate with approved and emerging residential building heights within the context of the subject site.
- The height of proposed structures is not inconsistent with the aims of the Building Height control as referred to within the Apartment Design Guide.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011 as it maintains satisfactory sky exposure to nearby buildings and the public domain and does not contribute to adverse overshadowing or overlooking of the habitable and or private open space areas of neighbouring properties.
- The redevelopment of the site will facilitate a use which is consistent with the objectives of the zone and the lift overrun and rooftop structures as proposed do not generate adverse environmental planning impacts upon adjoining or nearby properties in terms of aural and visual privacy, natural ventilation and views or vistas.
- The proposal is consistent with the objectives of clause 4.6 and is in the public interest.

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

6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affects the property. As such any works in excess of 1m below the natural ground surface or any works which are likely to lower the water table are required to be accompanied by an Acid Sulfate Soils Management Plan . The application was accompanied by correspondence from Environmental Investigations dated 21 September 2015, which stated as follows:

"An Acid Sulfate Soil Assessment was previously conducted by Douglas Partners (DP) as part of a Supplementary Contamination Assessment (DP Project Ref. 29561) comprised of field and laboratory testing of site soils. Based on the analysis, DP found a low potential for Acid Sulfate Soils and Potential Acid Sulfate Soils on the site. EI inspected the natural soils during the site validation which comprised of orange sandy clay. The natural clays did not contain jarosite, dark grey materials, shell grit or jarosite which can be indicators for the potential presence of acid sulfate soils.

It was therefore considered that the potential for generation of ASS conditions within the area of the site to be redeveloped were low, and that the preparation of an ASS management plan is unwarranted."

Given the above, the requirement for an acid sulfate soils management plan is not required at this stage. The proposal has however been conditioned to ensure that an Acid Sulfate Soils Management Plan is prepared and implemented on site should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"*.

The proposal is consistent with the objectives and requirements of this clause.

6.2 Earthworks

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

6.6 Flood Planning Land

The subject site is identified in council records as being flood affected. DA-2011/461 for the construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage was approved on 13 September 2012. The matter of flooding was considered as part of the assessment of this application, with a minimum floor level of 3.3RL required on site. DA-2011/461 was approved with a minimum floor level of 5RL - 5.4RL. The proposal does not seek to modify previously approved ground floor levels and as such maintains compliance with this requirement.

Further to the above, it is noted that the proposal will be conditioned to ensure that the basement car park is tanked, waterproofed and provided with a pump out system

Given the above, the proposal is satisfactory with respect to the provisions of this clause.

6.7 Stormwater

Councils Engineer has advised that nil stormwater plans were submitted with the application, yet will be required prior to the issue of a Construction Certificate to ensure that stormwater captured on site is connected into the existing irrigation storage tank, rain and OSD tanks. The proposal has been conditioned accordingly and thus satisfies the objectives of this clause.

6.11 Active Street Frontages

The approval of DA-2011/461 provided for five ground level retail / commercial tenancies and a supermarket tenancy. These spaces provide an active street frontage to both Mount Olympus Boulevard and Magdalene Terrace. The proposed development seeks to retain these approved spaces and as such is consistent with the requirements of this clause.

6.12 Essential services

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

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

There are no current draft environmental planning instruments applying to the subject site.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.3 Groundwater Protection	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
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 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Servicing - Wolli Creek and bonar Street	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 - Visual Connections	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes - see discussion
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes	Yes
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and Density	Yes	No - see discussion
7.1.8 Wolli Creek Street Character and Setbacks	Yes	No - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
7.1.9 Wolli Creek - Environmental Management	Yes	Yes

4.1.1 Views and Vista

Given the siting of the proposed development and surrounding context of existing and emerging development of greater heights than the proposed development, the proposal is unlikely to result in adverse view loss impacts to adjoining residents. It is further noted that given the previously approved building envelope upon the subject site as a result of the Masterplan approved in 2001, a building of similar heights was envisaged on the subject site since this time.

4.2 Streetscape and Site Context - General

The proposed development has been designed as a street wall periphery development form, addressing both the Magdalene Terrace and Mount Olympus Boulevard frontages of the subject site. The proposal provides an appropriate streetscape response and relationship to both street frontages.

Streetscape elevations have been articulated by four vertical elements in the lift core / fire stair locations of the building. The provision of full height glazing in these locations and variations in materials and colours results in a perceived reduction in the length and mass of the development when viewed from the public domain. These vertical feature elements visually break the building facade up into smaller building forms. Elevations further comprise appropriate building expression, with the use of articulation & modulation to facades via the incorporation of balconies, pedestrian entries at ground level and a range of colours, textures and materials.

As can be seen below, the proposal incorporates a varied palette of colours including greys, white and neutrals in addition to a variation in materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to rendered white and feature textured concrete, timber cladding, louvres, masonry and glass balustrades. These materials will provide a modern, contemporary, high quality and visually appealing development on site. This includes a varied palette of colours and materials to create visual interest when viewed from the public domain and neighbouring properties.

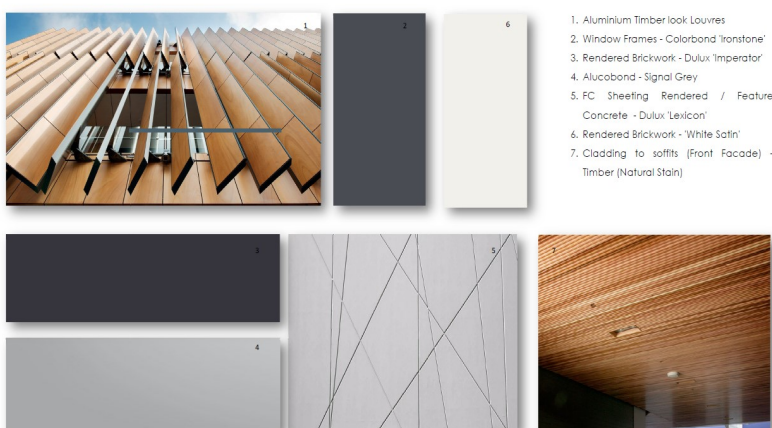


Figure 12 - Proposed materials and finishes

The bulk, scale and height of the development fits appropriately with established and approved developments under construction within the vicinity of the subject site. The proposed development is consistent with the massing of existing and emerging contextual development and is generally

consistent with the desired future character of the area.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter.

The subject site and proposed development are primarily located to the north, west and north west of the adjoining 'Proximity' development, which comprises shop top housing in residential towers 5 - 21 storeys in height. Given the orientation of the subject site and configuration of the proposed development on the subject site to form a periphery development, it is inevitable that some degree of overshadowing impacts will result to the existing 'Proximity' development (including its podium level communal open space and pool).

Further to the above, it is important to note that to the north of the subject site and 'Proximity' development, at 1-7 Magdalene Terrace, are Buildings 5 (18 storeys) and 3 (10 storeys) within Discovery Point. These buildings are currently under construction and nearing completion. Given the height and location of these buildings directly north of the subject site and 'Proximity' development, some overshadowing impacts already occur to the subject site and 'Proximity' development.

Consideration has been given to the cumulative overshadowing impacts of the subject development and adjoining Discovery Point Developments on the surrounding properties. The key areas are discussed below:

Proximity Building B

In relation to the shadow impact on Building B of the adjoining Proximity development, the applicant has submitted shadow diagrams in elevation showing existing and proposed shadows on the western and northern facades of Building B. These diagrams illustrate that all units within the northern facade of Building B will retain in excess of 3 hours sunlight between 9am & 3pm at midwinter and all units in the western facade of Building B will retain in excess of 2 hours of solar access between 9am and 3pm at midwinter. This complies with the requirements of the State Government's Apartment Design Guide (ADG). It is noted that the proposal will only start to overshadow windows located in the lower level western façade of Building B at midday in midwinter, and further units at the lower levels of this building will be impacted after this time. Therefore, given that all units will retain in excess of 2 hours of solar access between 9am and 3pm at midwinter, the loss of western afternoon sunlight is not unreasonable. The proposal is satisfactory with regards to the objectives in this regard.

Proximity Pool

The communal pool located at podium level within the Proximity development is positioned along the western side boundary of the property with the subject site. At 9am in midwinter the entire pool is in shade as a direct result of the shadow generated by buildings 3 and 5 at 1-7 Magdalene Terrace. The proposed development generates shadows to this pool at 9am, yet it is reiterated that the pool is already in complete shade given the shadow caused by Buildings 3 and 5 within Discovery Point located on the northern side of Magdalene Terrace.

As existing, half of this pool is in sunlight at 10am in midwinter. The proposed development generates additional shadow which results in this pool being entirely overshadowed at 10am.

Once again as existing at 11am and 12pm in midwinter this pool is overshadowed completely by the shadow generated by Buildings 3 and 5 at 1-7 Magdalene Terrace. The shadow onto the pool as caused by the proposed development is no greater than this existing shadow and the pool remains in shade at this time.

As existing, at 1pm in midwinter, 2/3 of the pool receives solar access, with half of the pool in sunlight at 2pm given existing shadows as previously referred to. The proposed development results in the loss of this existing sunlight to the pool at 1pm and 2pm in midwinter.

At 3pm in midwinter the pool is in complete shade as a result of the approved podium level on the subject site, resultant from DA-2011/461. As such the shadow onto the pool at this time by the proposed development is no greater than that previously approved as a result of DA-2011/461.

Given the above, it is evident that as a result of the location of the proximity pool, the proposed development and existing shadows caused by neighbouring buildings to the north, the pool at podium level will receive minimal sun in midwinter.

Midwinter shadows onto the Proximity pool are unfortunate yet are a direct consequence of the location of the pool on site, the high western boundary common wall between Proximity and the subject site, the high density residential context i.e. established high rise buildings to the north of the Proximity site and that proposed to the west upon the subject site.

Despite the above, it is important to highlight that the entire pool within Proximity will be in complete sunlight for the entire day in the month of December from 9am - 3pm in Summer and although unfortunate, the overshadowing of the pool in midwinter by the proposal for an additional 1.5 hours is inevitable given the aforementioned.

Proximity Communal Open Space

As existing at 9am in midwinter the garden podium communal open space area within Proximity is entirely overshadowed by the existing Proximity buildings and developments on the northern side of Magdalene Terrace. At 10am 1/3 of the gardens are in sunlight, this area will remain in sunlight at 10am with the proposed development. At 11am -12pm as existing approximately half the garden is in sunlight, this area will remain in sunlight at this time with the proposed development generating minor additional overshadowing. At 1pm as existing, approximately 1/3 of the gardens are in sunlight, the proposed development generates minor additional overshadowing, yet 1/3 of the gardens remain in sunlight.

During the times referred to above, it is clear that the Proximity gardens will retain a minimum of 3 hours of sunlight in midwinter between the hours of 10am - 1pm for 1/3 to 1/2 of the overall area of the gardens. This is considered to be acceptable and satisfactory with regard to the objectives of this clause. It is further noted that from 1pm - 2pm some level of sunlight is provided to the south eastern corner of the podium communal open space area within the Proximity development, with this area being entirely overshadowed by the proposed development at 3pm.

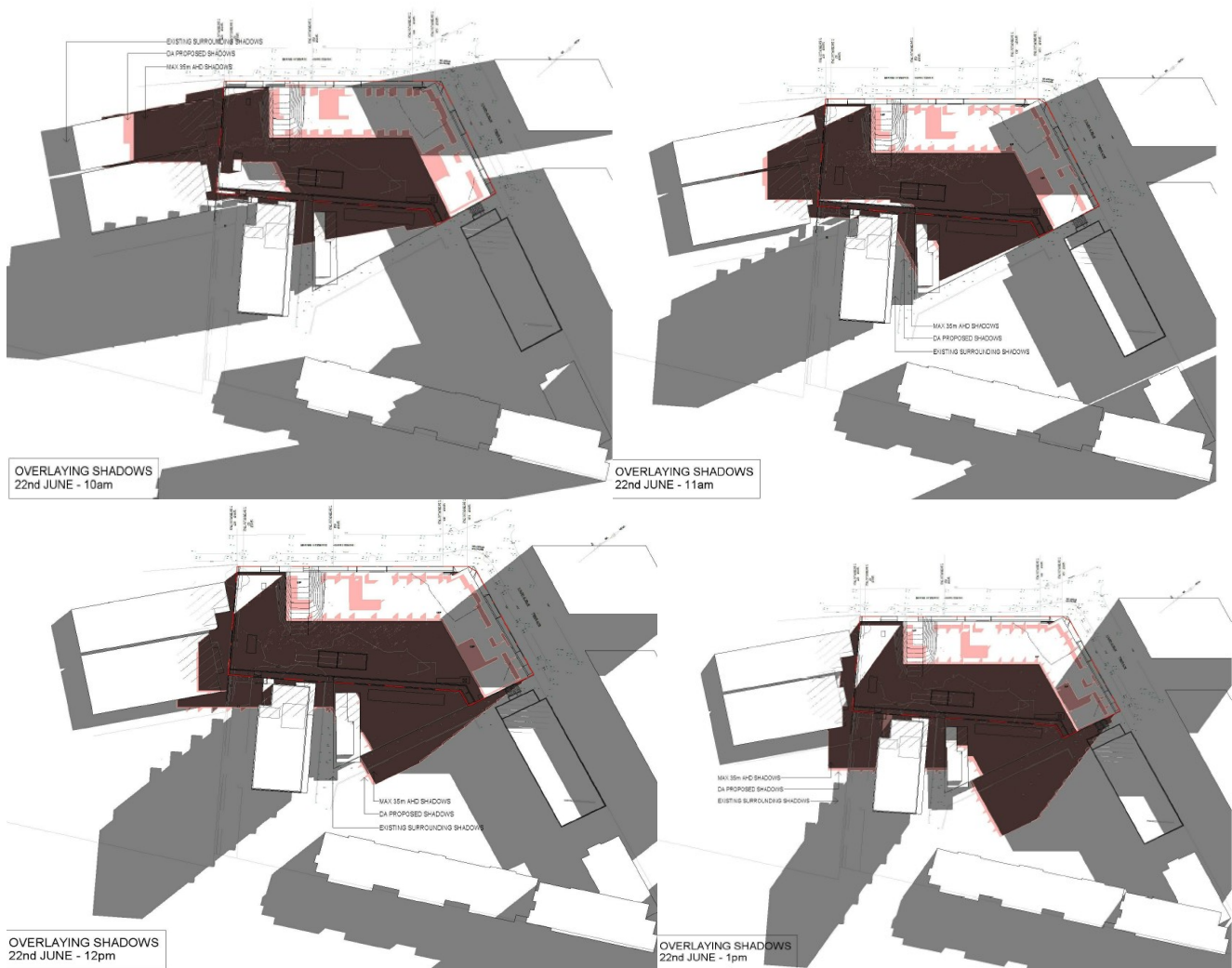


Figure 13 - Shadow diagrams

4.4.4 Glazing - General Controls

Plans indicate the provision of louvered and sliding screens to residential balconies to the eastern, western and northern elevations. This will aid in reducing the necessity for mechanical heating and cooling to habitable areas and provide appropriate weather protection. The proposal complies with the requirements of this clause.

4.4.5 Acoustic privacy

The proposal was accompanied by an Acoustic Report prepared by the Acoustic Group dated 24 July 2015. The report considered traffic, rail and internal noise transmission, making recommendations to ensure appropriate internal acoustic amenity is achieved. The proposal is considered to be satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

4.4.6 Noise Impact

It is reiterated that an Acoustic Report has been prepared by "The Acoustic Group" dated 24/07/2015 and submitted with the application. The report considers the potential impact of railway noise to residential dwellings and recommends measures to ensure that these levels are not exceeded. Details regarding mechanical plant have not been submitted with the application, yet the proposal has been conditioned to ensure that noise from mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.

In this regard the proposal is considered satisfactory and the proposal has been conditioned accordingly.

4.4.7 Wind Impact

The application was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 22 July 2015 ref 2015-341 Rev.2. The report stipulates that the most critical annual limiting gust wind speeds are expected in the following open areas:

- Communal Area at Podium Level;
- Podium Balconies;
- Level 2 – 8 Balconies; and
- Level 9 - Roof Terrace.

The report provides recommendations as follows in order to mitigate wind impacts on site given the height of the development.

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

The proposal has been conditioned to ensure the above recommendations are implemented on site. The proposal complies with the requirements of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

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

<i>DCP Requirement</i>	<i>Proposed</i>	<i>Complies</i>
1 bedroom / Studio 10% (10) - 20% (20)	2 x studio / 13 x 1 bed / 14 x 1 bed + study 29%	No – 9 surplus
2 bedroom 50% (50) - 75% (75)	56 x 2 bedroom / 1 x 2 bed + study 57%	Yes
3 bedroom 10% (10) - 30% (30)	7 x 3 bedroom / 7 x 3 bed + study 14%	Yes

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 10% (10) of residential units within the development are required to be provided as adaptable units. A total of 18 units (2, 4, 6, 7, 8, 14, 31, 32,

33, 41, 56, 57, 58, 66, 81, 82, 83, 91) are provided as adaptable units within the development. The proposal complies with the minimum number of adaptable dwellings required within the development.

Plans indicate the provision of accessible car parking spaces within basement levels which are within close proximity to lifts to enable ease of access. The application has been accompanied by an Access Report dated ref:214473 dated 22/07/2015 and prepared by Accessible Building Solutions. The proposal is consistent with the objectives and requirements of this clause and has been conditioned to ensure the recommendations of the Access Report are implemented on site.

It is further noted that access is provided to, within and throughout the development including basement car parking levels and communal open space areas allowing equitable access for persons with a disability / mobility impairment. The proposal is consistent with the requirements and objectives of this clause.

4.6 Parking Rates - Shop-top Housing

As per the provisions of this clause, parking provision is to be provided as follows on site.

- 1 space per studio, 1 and 2 bedroom (86 spaces required)
- 2 spaces per 3 bedroom (28 spaces required)
- 1 visitor space per 5 dwellings (20 visitor spaces required)
- 1 x dedicated car wash bay required

In addition to the above 58 dedicated car spaces are required for the commercial components of the development, as approved by DA-2011/461.

Overall a total of 193 on site car spaces are required for the development. Accordingly the proposal provides a total of 193 on site parking spaces and complies with the provisions of this clause.

4.6 Car Wash Facilities

An appropriately dimensioned car wash bay is proposed within basement level 2. The proposal satisfies the requirements of this clause.

4.6 Pedestrian Access and Sustainable Transport

Plans indicate the provision of 42 bicycle spaces within basement levels 2/3/4. These areas are secure and enclosed with mesh fencing. The proposal provides in excess of the minimum number of bicycle spaces required by DCP 2011. The proposal is therefore considered to positively encourage future occupants to adopt alternative modes of transport. The proposal is consistent with the requirements and objectives of this clause.

4.7 Air Conditioning and Communication Structures

Plans indicate the provision of air conditioning units located upon balconies of residential units. Balconies are provided with either masonry or glazed balustrades to both street frontages of the property. To ensure the aforementioned air conditioning units are not visible from the public domain the proposal has been conditioned to ensure glass balustrades to balconies are opaque. The proposal is satisfactory in this regard.

4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of two (2) waste chutes within the development, being one chute adjoining each lift core within the building. Waste is to be discharged into 1100L residential and 660L

commercial bins on site. Waste is to be compacted and discharged into waste holding rooms within basement level 2 which is of sufficient dimensions and area to accommodate the proposed residential development. Separate previously approved garbage storage areas were provided at ground level adjoining the loading dock for use by commercial tenancies on site.

Recycling bins are to be provided within a waste compartment on each residential level for the north core and levels 3, 5, 7 and podium for the dual level cross over apartments in the northwest core. Full waste and recycling bins will be transferred to the bin enclosure on basement 2. Bins will then be transferred to the ground floor loading bay via the goods lift on the day of collection and serviced by Council within the loading dock.

The proposal provides for appropriate on site waste management and satisfies the provisions of this clause.

4.7 Servicing - Wolli Creek and Bonar Street

The proposal has been conditioned accordingly, to require the developer to relocate underground electricity cables on the frontages of the site at no cost to Council.

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

Individual residential building entries have been provided to both frontages of the site at Magdalene Terrace and Mount Olympus Boulevard. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street and development. The proposal satisfies the requirements and objectives of this clause.

5.2 RFB - Lift Size and Access

Lift access has been provided on site. Three lifts are provided within the development, with a single lift core to the portion of the building fronting Magdalene Terrace and a dual lift core to the portion of the building fronting Mount Olympus Boulevard. Each lift provides access from basement levels to the uppermost storey of each building on site. Cross over between lifts is provided at levels 3 / 5 / 7 via a common corridor and the rooftop communal open space area, enabling future occupants access to three lifts within the building. Lifts are appropriately dimensioned. The proposal complies with the requirements and objectives of this clause.

5.3 Mixed Use - Visual Connections

The development retains the previously approved glazed ground floor retail spaces to both street

frontages with clearly identifiable residential lobbies. The upper levels of the proposed development incorporate residential balconies and windows, which overlook the public domain and provide passive surveillance from the site. The proposal is satisfactory in this regard.

5.3 Mixed Use - Secured Access to Parking

This clause requires that where a building contains residential and non-residential uses, separate lift access be provided from basement car parking to the residential and non-residential areas. Additionally that residential parking spaces be secure and separate from non-residential vehicle parking and servicing areas.

Plans indicate that secure residential car parking is provided at separate levels from commercial car parking on site. Additionally plans illustrate the provision of a separate goods / customer lift and ramp provided within the development for the future commercial uses, enabling future customers to access the ground level retail uses via a separate lift from those intended for the upper level residential uses.

The proposal is consistent with the objectives and requirements of this clause.

7.1.7 Wolli Creek Built Form: Building Heights and Density

The building height diagram within Part 7.17 of DCP 2011 illustrates a height of up to 8 storeys being permitted upon the subject site. The proposed development comprises a total of 9 storeys with rooftop elements atop the building as discussed earlier within this report within Clauses 4.3 and 4.6. The proposed development is not inconsistent with the height and density of the existing and emerging contextual development within Wolli Creek and is generally consistent with the previously approved and envisaged master plan for the site. As such the proposal is considered to be satisfactory in this instance and satisfies the objectives of this clause.

7.1.8 Wolli Creek Street Character and Setbacks

The Magdalene Terrace frontage of the site is identified as 'Retail Street Frontage' with the Mount Olympus Boulevard frontage of the site identified as 'Mixed Use Street Frontage' within the street character diagrams depicted within this clause.

Accordingly, a 2m building setback is required to both frontages of the site, of which a further 2.5m articulation zone is also required. The articulation zone is intended to comprise only balcony elements.

The proposed development complies with the 2m building setback to both frontages, yet plans indicate building elements protruding into the articulation zones at both site frontages as can be seen in yellow below.

Plans illustrate that the design of the development alternates on each level, with balconies proposed within the articulation zone on Levels 2, 4, 6 and 8 and a mix of floor space and balconies on Levels 3, 5, 7 and 9.



Figure 14 - Building element protrusions to Magdalene Terrace

It is noted that Building E adjoining the proposed development to the east is positioned closer to Magdalene Terrace than the proposed development, with solid balcony elements which are forward of the building line of the proposed development. Given the established building line and balcony elements of Building E to the east, the protrusions as proposed in this instance are not considered to be unreasonable given the existing context.

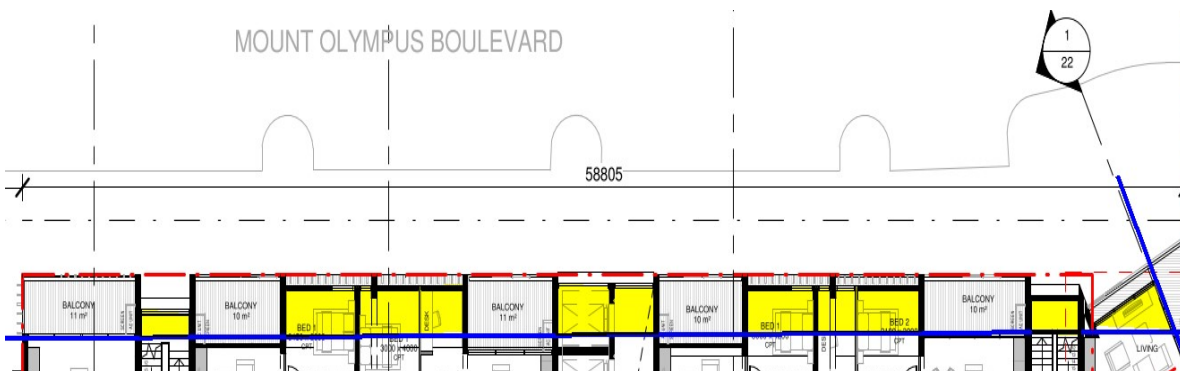


Figure 15 - Building element protrusions to Mount Olympus Boulevard

With respect to building protrusions to the Mount Olympus Boulevard frontage of the site, it is noted that the proposed development shall be the only building directly fronting Mount Olympus Boulevard. Given the intended future public park to the rear of the site and future desired context, the minor building protrusions are not considered to be unreasonable.

Further to the above, it is noted that the provision of an alternating design on the subject site, given the extensive street frontages, allows for the development to be articulated, providing for visual interest. The proposal is acceptable in this regard and complies with the objectives of the 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

Sydney Trains

The subject site is positioned opposite the railway line, as such the proposal was referred to Sydney Trains for comment. Sydney Trains raised no objection to the proposal subject to the imposition of deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations. The proposal is recommended for a Deferred Commencement approval subject to compliance with the requirements of Sydney Trains.

Interface with Proximity

As previously mentioned within this report, the approval (DA-2011/461) set the ground floor and podium levels of the development. DA-2011-461 approved the podium level of the development upon 4 Magdalene Terrace at 10.8RL. This is 2.4m higher than the communal open space level (8.4RL) of the adjoining Proximity development. In order to mitigate the extent of the variation in levels between the two developments, DA-2011/461 was approved with a stepped landscaped planter at 9.8RL stepping up to 10.8RL and spanning the entire length of the common boundary between the sites. This stepped planter is retained as previously approved as part of the current application.

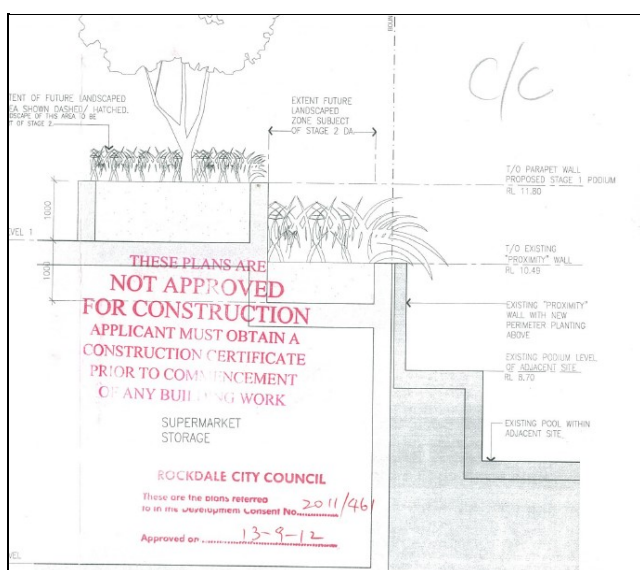


Figure 16 - Approved interface between podium of 4 Magdalene Terrace and Proximity

Surrender of DA-2011/461

As previously referred to in this report, the subject site benefits from an existing approval for the "construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage".

The proposal has been conditioned to incorporate relevant conditions of consent from the previous approval relating to the use of the site for commercial purposes. Conditions from the previous consent have been incorporated into the draft Notice of Determination, to ensure that a single consent operates upon the subject site for the entire development and to ensure there is no ambiguity.

Given the above, the application has been conditioned to require the applicant to surrender the previous consent to Council.

Temporary Wall with Proximity

As previously noted within the 'History' section of this report, on the 2nd October 2002, DA-2002/1243 was approved by Council for the construction of Proximity, being blocks A / B / D / E. Condition 26 of this consent related to a requirement for 31 additional visitor car spaces for stage 1 to be provided in

the construction of Stage 2 (the subject site) of the development.

As such to allow access from Block B to the subject site in order to access the future intended visitor car spaces there was an easement in favour of the subject site over building B, and a false wall was constructed on the south western corner of Building B at the common boundary with the subject site. The intention was that this wall be removed upon the construction of the podium level to the subject site enabling direct access. A temporary wall was created in the aforementioned location beneath the existing building B within the Proximity development.

Given the deletion of condition 26 in 2004 and approval of DA-2011/461 which resulted in a difference in podium levels between Proximity and the subject site, the requirement for the temporary wall on the common boundary of the subject site with Proximity is now defunct. Accordingly, the proposal has been conditioned to require that the developer obtain consent from the relevant Body Corporate(s) of the Proximity Development so that they can replace the existing temporary wall with a permanent wall between these separate sites.

Safety & Security

The development provides clearly identifiable and legible residential building entries to both Magdalene Terrace and Mount Olympus Boulevards. Residential lobbies comprises direct pedestrian access and are glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal is satisfactory in this regard.

Social Impact

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

Construction

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

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

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

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and 13 submissions were received. Following the submission of amended plans, which were not re notified, 6 additional submissions were received. The issues raised in the submissions received by Council are

discussed below:

- *Approved / proposed development results in adjoining Proximity pool not complying with relevant pool fencing legislation. It is unfair to expect Proximity Body Corporate to have to resolve this*

Comment: As part of DA-2011/461, the podium level as part of the subject application remains at 10.8RL. Notwithstanding the proposal has been conditioned to require that the proposed development does not result in a non compliance with relevant pool legislation for the Proximity Pool.

- *Damage to walls and foundations of Proximity has occurred and will worsen with proposed development / Additional excavation below the level of Proximity's foundations will lead to subsidence and instability of infill concrete block walls. / No excavation should occur beneath Proximity / Fitting of each anchors under Proximity should not be permitted / Damage to Proximity should be rectified by the developer / Installation of ground anchors into Proximity's land has illegally been undertaken / Ground anchors would strike foundations, pipes and services causing damage / Developer should utilize a different method to secure the foundation excavation and retaining walls*

Comment: Matters relating to existing excavation and anchoring works on site are issues of compliance to be directed to and managed by the Principal Certifying Authority for the subject site. With regards to possible future impacts, the proposal has been conditioned to ensure that a dilapidation report is obtained by the developer prior to commencement of works and that should any damage to the Proximity development and/or nearby Council infrastructure occur during construction, that this be rectified. Additional conditions are also proposed requiring that the adjoining building be supported to prevent subsidence and damage. The proposal has been further conditioned to ensure all works are within the boundaries of the subject site and do not protrude into adjoining properties.

- *Significant overshadowing of Proximity pool and gardens by the proposed development / Shadow diagrams are inaccurate and do not depict trees and structures from podium level / Solar access plans do not detail shadows from trees and plants./ Overshadowing of proximity pool is unacceptable.*

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

- *Visual privacy impacts to Proximity pool area from proposed development / Visual privacy impacts to bedrooms of units within Proximity / Inadequate building separation between building E fronting Magdalene Terrace and the proposed development*

Comment: The matter of building separation and Building E has been detailed previously within this report. It is reiterated that the podium level of the proposed development and the adjoining Proximity development are not aligned, with substantial shrub and tree terraced planting provided at podium level of the proposed development along the common eastern boundary of the site with Proximity. Also, given the proposed landscaping at the common boundary and level difference, it is unlikely that the proposal will result in adverse overlooking of the Proximity Pool.

Further to the above it is noted that the rooftop communal open space is recessed from the edge of the

building, with periphery shrub and tree planting provided. Additionally the proposed development comprises a building separation of 20m from Building B within the Proximity development and building separation as proposed is considered to be satisfactory in order to avoid adverse visual privacy impacts between neighbours.

- *CPTED principles not acknowledged where development adjoins doctors surgery at shop 1 Magdalene Terrace*

Comment: Plans have been amended to provide for full height glazing to the eastern wall of Retail shop A, adjoining the Proximity stairwell to Magdalene Terrace. The provision of floor to ceiling glazing will ensure visibility is retained and a safe environment is provided in vicinity of this premises.

- *Traffic impacts / Deficiencies within traffic report i.e. days and times when studies were undertaken / Revised traffic report should be submitted, undertaken on Monday morning peak, taking into account the increased traffic expected by converting Mount Olympus Boulevard and Magdalene Terrace into one way streets and the impact of increased residential traffic and traffic visiting commercial component of the development / Traffic reports submitted with the DA neglect to refer to the Council's proposed one-way traffic movement along Mount Olympus Boulevard.*

Comment: Councils Engineer considered the matters of car parking, maneuverability and traffic and was satisfied that the proposal was unlikely to result in adverse traffic or car parking impacts within the surrounding road network. It is reiterated that the proposal complies with relevant car parking requirements and provides an on site loading / unloading bay.

- *Overcrowding of trains*

Comment: The subject site is zoned to facilitate residential development. The matter of 'overcrowding of trains' is outside the scope of this application.

- *Additional height proposed is inappropriate / Additional bare concrete wall structures facing Proximity will be unsightly / Concessions are being sought to increase the height of buildings, Stage 1 has already raised the roof of the supermarket several metres above what was to be the single level shared use podium / additional height now creates bland concrete walls facing Proximity.*

Comment: As previously discussed within this report, the level of the podium was established by a previous approval DA-2011/461. This level is retained by the proposed development. The matter of interface between the subject site and Proximity has been previously discussed within this report. It is reiterated that a stepped planter with appropriate landscaping is to be constructed along the common boundary in order to mitigate the visual impact of the difference in levels between the two sites.

Further to the above, the proposed development incorporates green walls to previously approved bare walled service structures at podium level, this will ensure visual amenity from the neighbouring Proximity communal garden area is maximized.

- *Devaluation of property.*

Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.

- *Acoustic impact of rooftop communal open space to residents in Building B*

Comment: The rooftop communal open space area is located in excess of 20m away from Building B within Proximity. The rooftop area as proposed is intended to be provided as a secondary 'passive' communal open space area, with the swimming pool and childrens play equipment being located within the 'active' communal open space area at podium level. Given the distance of the rooftop communal open space area from Building B and the high density residential context of the area, it is not considered likely that the proposed rooftop communal open space area will result in adverse acoustic impacts to neighbours.

- *Increased strain on water, sewerage, electricity*

Comment: The subject site is zoned for residential uses and services are available for connection. The proposal was referred to the appropriate service providers i.e. Ausgrid / Sydney Water and no objections were raised to the proposed development.

- *DA is inconsistent and contrary to approved Master Plan for site / Site should be for commercial purposes.*

Comment: The proposal has been assessed against the current planning controls relevant to the site. Shop top housing is permissible upon the subject site as per the provisions of Rockdale LEP 2011.

- *Dilapidation report should be mandatory / Damage to street trees and pavement is expected.*

Comment: The proposal has been conditioned to require a dilapidation survey be undertaken of all properties and/or Council infrastructure, in the vicinity of the site, including the Proximity development, which could be potentially affected by the construction of this development. The condition requires that any damage caused to other properties during construction shall be rectified by the developer. 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) prior to issue of the Construction Certificate.

- *Management of garbage bins/collection and delivery of goods will be inadequate / Clarification on residential waste disposal is sought.*

Comment: The matter of waste has been discussed previously within the report. Appropriate waste storage facilities are provided on site. Commercial and residential bins will be serviced within the loading dock within the subject site.

- *Missing 31 car spaces should be provided / Are 31 car spaces being provided for Proximity this is suggested within submitted Statement of Environmental Effects / How will residents access the additional car parking spaces within the adjoining site*

Comment: No parking is proposed to be provided for the adjoining Proximity building or its residents. The condition requiring the provision of these spaces was deleted as part of a previous S96 application. Accordingly the developer is no longer required to provide these spaces.

- *A 250mm slab has been poured in the area adjoining Magdalene Terrace that restricts excavation and prevents the existing design for the car park and proposed spaces being accommodated. Accordingly plans are inaccurate and have not taken into account the slab*

Comment: Should the existing slab on site not be required, it will be removed during construction. Any construction upon the subject site will be required to occur in accordance with the development consent for the property.

- *Loss of solar access to building B within Proximity development.*

Comment: The matter of solar access has been previously discussed within this report, in response to Part 4.4.2 of Rockdale DCP 2011, and was found to be satisfactory.

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

The proposal has been conditioned to require the payment of S94 Contributions as required by Council policy.

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 approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan / Dwg No.	Drawn by	Dated	Received by Council
Basement Level 4 (Drawing 03) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 3 (Drawing 04) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 2 (Drawing 05) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016

Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Roof Plan (Drawing 17) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
East / West Elevations (Drawing 18) Issue N	Design Workshop Australia	20/06/2016	21/06/2016
North / South Elevations (Drawing 19) Issue N	Design Workshop Australia	20/06/2016	21/06/2016
Sections A/B (Drawing 20) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Sections C/D (Drawing 21) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Section E (Drawing 22) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Detailed Sections 03/04 (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA01 - LA02 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M_03 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. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
 - Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
 - Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
 - Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
 - Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
 - Retail E - 1/6 Mount Olympus Boulevard Wolli Creek
 - Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
 - Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek
10. A total of 193 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

Studio - 2 bedroom apartments - 1 space per apartment
 3 and 3+ bedroom apartments - 2 spaces per apartment
 Commercial Units - as specified within this consent

Non-Allocated Spaces

Residential Visitor - 20 spaces
 Car wash bay - 1 space

Basement level 1

Retail tenancy A – 7 spaces
Retail tenancy B – 2 spaces
Retail tenancy C – 2 spaces
Retail tenancy D – 2 spaces
Retail tenancy E – 2 spaces
Supermarket – 43 spaces

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

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

Development specific conditions

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
13. The front windows of retail premises shall 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.
14. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.

B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council’s consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Ridgid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in size and mass than the Heavy Ridgid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.
19. 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.

20. 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.
21. 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.
22. 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.
23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
24. 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.

25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
29. 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.
30. 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.
31. 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.

32. a) In order to ensure the design quality excellence of the development is retained:
 - i. Mr Robert Gizzi of Design Workshop Australia 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 authorized 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 the Department 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 the Council or Department.

33. 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.

34. The proposed signs must not have / use:

- flashing lights
- electronically changeable messages
- animated display, moving parts or simulated movement
- a method and level of illumination that distracts or dazzles

35. *Landscaping*

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.

Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).

Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.

All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

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

The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

36. *Swimming Pool*

The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.

Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.

Suitable depth markers shall be provided at each end of the swimming pool.

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

The motor, filter, pump and all sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to the neighbours.

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Rockdale Council or the Royal Life Saving Society.

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days.
39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

Prior to issue of the construction certificate

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

41. 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 \$45 195.00. 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 \$17.00.
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. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
44. Mount Olympus Boulevard
Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:
- (a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:
 - (i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.
 - (ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.
- Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.
- (b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.
45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
48. A Section 94 contribution of \$2,938,466.78 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels).

The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space \$1,383,119.38
Town Centre / Streetscape \$148,184.63
Roads, Traffic Management, Public Parking \$992,101.50
Flood Mitigation and Stormwater \$237,026.77
Pedestrian and Cyclist \$79,373.40
Administration and Management \$47,289.64
Community Facilities and Services \$51,371.46

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.
51. 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.
52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
53. 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 a minimum of 10 residential units within the development and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable units are to be unit numbers 2, 4, 6, 7, 8, 14, 31, 32, 33, 41, 56, 57, 58, 66, 81, 82, 83, 91. 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.

54. The applicant shall confer with Ausgrid to determine if:
 - installation of electricity conduits in the footway is required.
 - satisfactory clearances to any existing overhead High Voltage mains will be affected.

- an electricity distribution substation is required.

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

55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit www.sydneywater.com.au.
56. 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 20 and shall include all relevant levels, grades (%) and lengths.
57. The subsurface structure shall be designed with a waterproof retention system (ie 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.
58. 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 comply with the conditions of consent.
59. *Adjoining buildings founded on loose foundation materials*

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 Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd – Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm 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 sub soil drains / spoon drain 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.

60. *Vibration monitoring*

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

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

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;
- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior to excavation.
65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:

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

B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

C). Glass balustrades shall be provided as frosted or opaque.

D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

E). Compliance with the recommendations of the Access Report dated ref:214473 dated 22/07/2015 prepared by Accessible Building Solutions.

F). The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 22 July 2015 ref 2015-341 Rev.2 are to be implemented on site, including

- Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;
- Pergolas, canopies and awnings over open areas; and
- Landscaping such as dense shrubs and trees.

- Canopy or pergola on the roof terrace.

G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.

H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.

I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

M). Acoustic Attenuation - The noise reduction measures specified in the noise report prepared by "The Acoustic Group" dated 24/07/2015 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:

- (i) in any bedroom in the building-35 dB(A) at any time between 10.00pm and 7.00 am; and
- (ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.

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

67. *Safety & Security*

- a. 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
 - b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
 - c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
 - d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
 - e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
 - f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - g. 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. Details to be provided prior to the issue of the Construction Certificate.
68. All recommendations contained in the Geotechnical Investigation report prepared by by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

Prior to commencement of works

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

- 69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development 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.
- 70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Arncliffe Street, Wollie Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway.
- 71. 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.

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:

- a) Hours of work,
- b) contact details of site manager,
- c) traffic management,
- d) noise and vibration management,
- e) waste management,
- f) erosion and sediment control,
- g) protection of trees to be retained.

A copy of the approved Construction Management Plan shall be submitted to Council.

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 Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:

- a) Ingress and egress of construction vehicles to the site,
- b) routing and control of construction vehicles,
- c) parking of employees vehicles,
- d) loading and unloading, including construction zones, for all construction vehicles,
- e) predicted traffic volumes, types and routes,
- f) pedestrian and traffic management methods,
- g) the hours of operation of the construction site,
- h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
- i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.

The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.

76. 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.

77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:

- Identification of the specific activities that will be carried out and associated noise sources',
- identification of all potentially affected sensitive receivers including residences, schools and existing facility,
- the construction noise objective specified in the conditions of this approval,
- the construction vibration criteria specified in the conditions of this approval,
- noise and vibration monitoring, reporting and response procedure,
- assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- contingency plans to be implemented in the event of non compliance's and/or noise complaints.

A copy of the approved Plan shall be submitted to Council.

78. 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.

79. 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.

80. 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:

- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- building involves the enclosure of a public place,

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

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

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

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

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

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

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

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

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

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

81. 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.
82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
83. 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.
84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

During demolition / excavation / construction

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

85. 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.
86. 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.
87. 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.

88. 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. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - ii. 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.

89. 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.

90. 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.

91. 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.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
93. 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.

94. 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.

95. 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.

96. 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.

97. 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 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.

98. 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.

- 99. 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.

- 100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
- 102. 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.
- 103. 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.
- 104. 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.
- 105. 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) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.

(d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.

(e) 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.

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. 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.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.
110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:

- ☐ describe and document all works performed;
- ☐ include results of validation testing and monitoring;
- ☐ include validation results of any fill imported on to the site;

- ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
- ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.

The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at www.foodnotify.nsw.gov.au/nafsis/ and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

112. 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.

113. 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.

A Site Audit Statement (SAS) and Site Audit Report 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.

114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.

The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

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 20 May 2011.

115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
117. 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.
118. 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.

119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the development shall be provided in accordance with the submitted plans and the following.

- ☐ Retail tenancy A – 7 spaces
- ☐ Retail tenancy B – 2 spaces
- ☐ Retail tenancy C – 2 spaces
- ☐ Retail tenancy D – 2 spaces
- ☐ Retail tenancy E – 2 spaces
- ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be

implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. A total of 135 off-street residential car spaces (134 residential / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, maneuvering areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
128. 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.
129. 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.
130. 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.
131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. 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.

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

137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:

- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and
- (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.

138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

Integrated development/external authorities

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

139. Sydney Airport Corporation Limited

SACL has approved the maximum height of the proposed building at 39.5 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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.

140. NSW Office of Water

General

A. 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.

B. 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.

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

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. 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.

E. 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.

Prior to excavation

A. 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.]

B. 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.

C. 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.

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

E. 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).

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

F. 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.

G. 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

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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

A. 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.

B. 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.

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

- a) Machinery to be used during excavation/construction.
- b) Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- c) 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.

B. 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.

C. All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized 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.

G. 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.

H. 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".

I. 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.

J. 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.

K. 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.

L. 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.

M. 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. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. 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.

N. 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.

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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.

Roads Act

142. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

143. 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.

144. 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.

145. All driveway, footpath, or road and drainage modification and/or improvement works

to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:

i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;

ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.

iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.

iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.

v) Provide Council with 48 hours notice of the following:

a) Commencement of the works

b) Completion of road sub-grade trimming and compaction; and

c) Completion of road base-course trimming and compaction; and

d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and

e) Prior to covering any stormwater drainage pipes and connections; and

f) Prior to placement of road wearing course; and

g) Completion of works.

Note: An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

a) Keep the works clean and free of silt, rubbish and debris;

b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function 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;

c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;

d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;

e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice

served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).

147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
148. 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) or landscaped.
149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:
 - i) Detailed design plans and specifications, including structural details; and
 - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).
Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

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. 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.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
 - i) all of the above conditions of consent must be complied with;
 - ii) a Section 73 certificate from Sydney Water must be supplied.
 - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
 - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape

Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.

- 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. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
- 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.

