

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-296 DA2023/0222
PROPOSAL	Construction of a 37-storey shop-top housing development containing 244 apartments, retail/commercial premises at the podium levels, and 9 basement car parking, with associated landscaping.
ADDRESS	No 9 -13 Blaxland Road, Rhodes
APPLICANT	BBG MANAGEMENT PTY LTD (Billbergia)
OWNER	LEEDS INVESTMENT NO. 9 PTY LTD RHODES STATION PROPERTY PTY LIMITED RHODES INVESTMENTS GROUP PTY LTD
DA LODGEMENT DATE	12-Oct-2023
APPLICATION TYPE	DA, INTEGRATED under the <i>Water Management Act</i>
REGIONALLY SIGNIFICANT CRITERIA	The development's estimated cost is more than \$30 million. As outlined in Section 2 of Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 (PSSEPP), the DA has declared a regionally significant development under Section 2.19 of the PSSEPP.
CIV	\$168,084,273 (excluding GST)
CLAUSE 4.6 REQUESTS	<ul style="list-style-type: none"> • Clause 4.3 of Canada Bay Local Environmental Plan 2013 (CBLEP) relates to the maximum height requirements • Clause 7.6 of the CBLEP regarding building podiums in Rhodes Precinct
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Canada Bay Local Environmental Plan 2013

TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	16 <ul style="list-style-type: none"> • Station Bridge Plaza connection unviable • Insufficient active frontage • Insufficient building separations • Adverse traffic impacts (during construction and operation) • Overshadowing impacts on public spaces • Building height control exceedance • Overdevelopment of the site • Inadequate Wind Study • Inadequate fire study • Lack of visual privacy • Amenity impacts during construction • Water quality impacts
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Statement of Environmental Effects (SEE), prepared by Gyde, 22 September 2023 and appendices • CI4.6 variation requests • Response to RFI Letter dated 20 February 20 and associated plans and documents • Response to RFI Letter dated 10 May 2024 and associated plans and documents • Response to RFI Letter dated 18 July 2024 and associated plans and documents
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Housing and Productivity Contribution
RECOMMENDATION	Approval subject to conditions of consent
DRAFT CONDITIONS TO APPLICANT	Attachment A
SCHEDULED MEETING DATE	8 August 2024
PLAN VERSION	Various dates and revisions (please refer to recommended conditions, table of approved plans)
PREPARED BY	City of Canada Bay Council
DATE OF REPORT	1 August 2024

EXECUTIVE SUMMARY

This report evaluates the Development Application (DA 2023/0222) for constructing a shop-top housing development at 9-13 Blaxland Road, Rhodes. The proposal, valued at over \$30 million, is being considered by the Sydney Eastern City Planning Panel (SECPP). The site is situated within the Station Gateway East in the Canada Bay Local Government Area (LGA), covering 1537 square meters with frontage to Blaxland Road and Concord Road. Currently, the site features a one-storey brick residential dwelling, a cafe, and a four-storey commercial building.

The proposed development includes the demolition of existing structures and the construction of a 37-storey building. The new building will comprise 244 residential apartments, retail and commercial spaces at the podium levels, and nine basement levels accommodating 203 car parking spaces. The design aims to create a vibrant mixed-use environment, contributing to the urban character of Rhodes while providing significant residential and commercial facilities.

The proposal emerged as the winner of a competitive design competition and underwent further refinement based on jury feedback before the DA was lodged. The design aligns with the objectives of several State Environmental Planning Policies (SEPPs) and the Canada Bay Local Environmental Plan 2013 (CBLEP).

The proposal includes requests for variations under Clause 4.6 of the Canada Bay Local Environmental Plan 2013. The proposed variation to maximum building height is justified as it aligns with the objectives of ensuring compatibility with the desired high-density future character and minimal overshadowing. The additional height allows for improved architectural design and better residential amenity without significant adverse environmental impacts. The absence of a podium on the south elevation, extending the tower to ground level, is mitigated by the adjoining Churchill Tucker Reserve's tall fig trees, which provide a green screen. The variation supports optimal use of the constrained site, enhancing the overall urban design and functionality.

The proposal was publicly notified for 28 days, during which sixteen submissions were received. Concerns raised by the community included issues such as station bridge plaza connection, insufficient active frontage, building separations, traffic impacts, overshadowing, and overdevelopment. The proposal has been carefully assessed against these concerns, with appropriate design solutions and conditions recommended to mitigate potential impacts.

The development application has been reviewed by several external agencies, each providing their concurrence with conditions. Being an integrated development under the Water Management Act, WaterNSW has provided General Terms of Approval (GTA). Additionally, various internal council departments have thoroughly reviewed the application and have no objections, subject to conditions.

Council is satisfied that the site is suitable for the proposal and would enhance the Rhodes precinct's vibrancy while prioritising internal amenities and minimising adverse effects on neighbouring properties. Following a comprehensive review, the proposed development is deemed supportable, aligning with planning regulations and addressing potential impacts.

The proposed development at 9-13 Blaxland Road, Rhodes, is recommended for approval, subject to conditions. The project aligns with regional planning strategies, contributes to the urban transition of the area, and offers significant economic, social, and environmental benefits. This report and the accompanying recommended conditions are submitted to the Sydney Eastern City Planning Panel for consideration of the application.



Figure 2 | Site location – local context (Source: Nearmap 2023)

1.2 The Locality

The surrounding area includes Concord House to the north, which comprises various businesses, and further north, a fire station and a mix of residential buildings on Blaxland Road. To the east, Concord Road and Mcllwaine Park are across the road. To the south is Churchill Tucker Reserve, and to the west is Blaxland Road and Rhodes Train Station, beyond which lies the mixed-use development of Rhodes West, including Rhodes Central. The area is currently undergoing an urban form transition, with the future character of the precinct expected to reflect high-density mixed-use.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The key components and features of the proposal set out in the Statement of Environmental Effects (SEE) are provided in [Table 1](#).

Table 1 | Main components of the proposal

Aspect	Description
Project summary	The proposal includes construction of a mixed-use development comprising 244 residential units in the form of a

		podium with residential and commercial tenancies from ground level to level 3, and residential units in towers from levels 3 to 37. The development will also include associated landscaping and 9 levels of basement car parking.
Site area		1,537 sqm
Proposed GFA		24,691.9 sqm
Proposed Residential GFA	Non-	1,333.4 sqm
No of apartments		244 residential apartments Unit Mix: <ul style="list-style-type: none"> – 58 x studios and one-bedroom apartments 23.7% – 96 x two-bedroom apartments 39.3% – 90 x three or more bedroom apartments 36.8%
Proposed Height		123.5m
Proposed Landscaped area		1,320.9 sqm <ul style="list-style-type: none"> – Ground floor: 497.7sqm – Podium Levels: 304.9sqm – Level 37: 246.7 – Facade planters 271.6sqm – Deep soil area: ~15sqm (~1%)
Communal Open Space		
Parking spaces		<ul style="list-style-type: none"> – 203 Car Parking from each 38 car parking spaces are reserved for people with disabilities <ul style="list-style-type: none"> 144 for residential use 8 for visitors 9 spaces for commercial & retail 5 car share spaces – ~561 Bicycle Parking – End of Trip (EoT) facilities 81sqm – 53 Motorcycle Parking
Setbacks		<ul style="list-style-type: none"> • North boundary: <ul style="list-style-type: none"> ○ Zero-setback for the basements ○ Minimum 1.5m level 01 to Blaxland and activation to future Minimum Station Plaza ○ Minimum 300mm level 02 & 03 ○ Minimum 4m level 04 and above • West boundary: <ul style="list-style-type: none"> ○ Zero-setback for the basements ○ minimum 3m to the podium and 7m to the tower • South boundary: Zero boundary • East boundary to the Concord Road: <ul style="list-style-type: none"> ○ Zero-setback for the basements ○ minimum 3m to the podium and 7m to the tower
CIV		\$168,084,273 (excluding GST)

The proposed works are also shown in [Figure 3-Figure 9](#).



Figure 3 | Proposed Floor Plans (Source: Applicant's Architectural Plans)



Figure 4 | Proposed Floor Plans (Source: Applicant's Architectural Plans)



Figure 5 | Proposed Floor Plans (Source: Applicant's Architectural Plans)

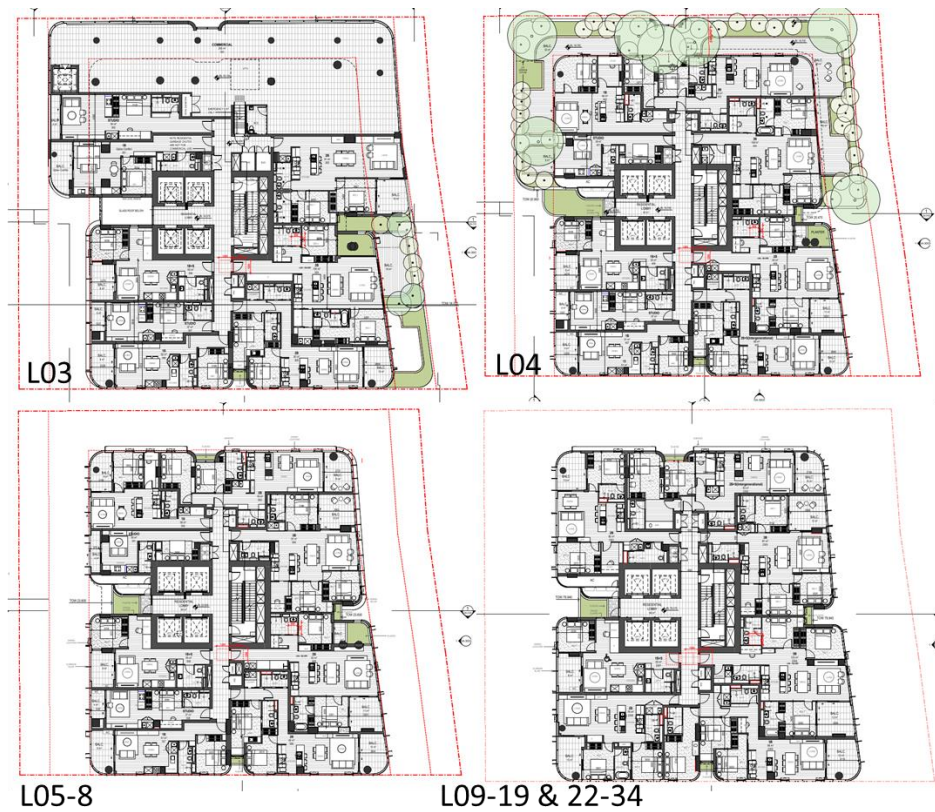


Figure 6 | Proposed Floor Plans (Source: Applicant's Architectural Plans)

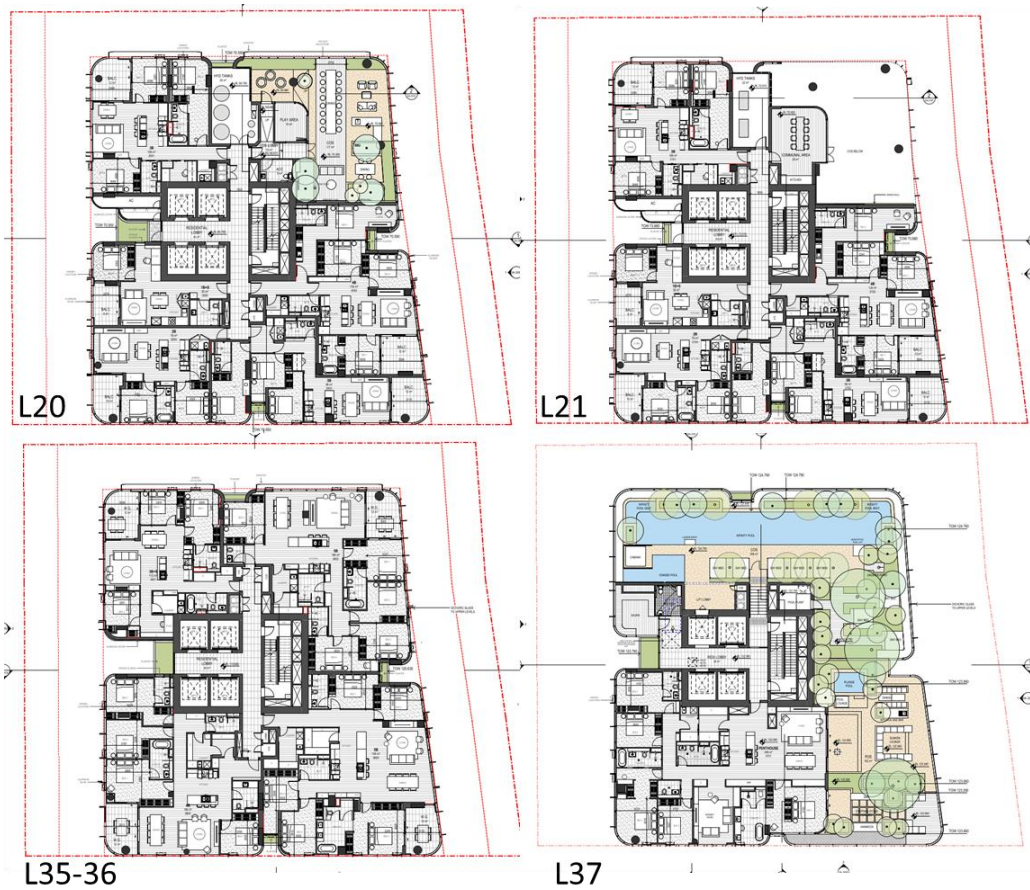


Figure 7 | Proposed Floor Plans (Source: Applicant's Architectural Plans)

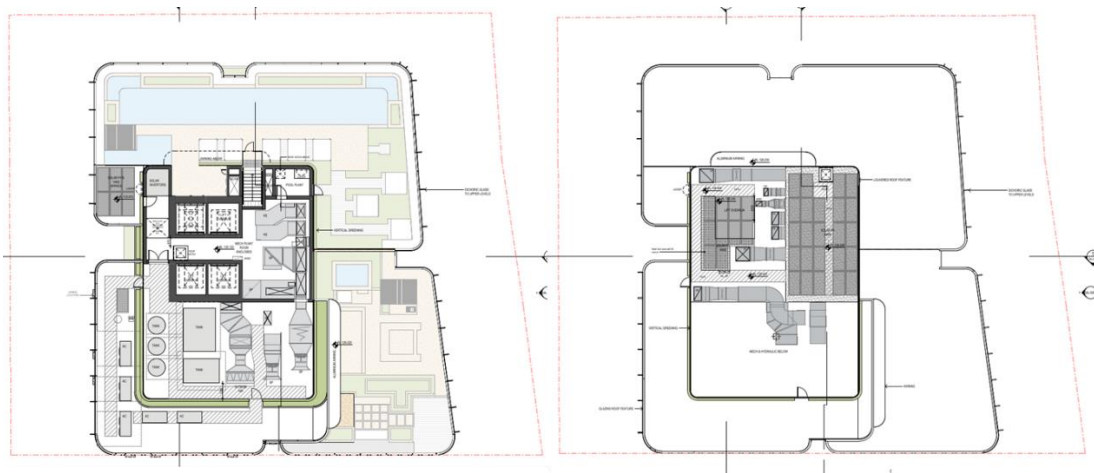


Figure 8 | Proposed Roof Plans (Source: Applicant's Architectural Plans)

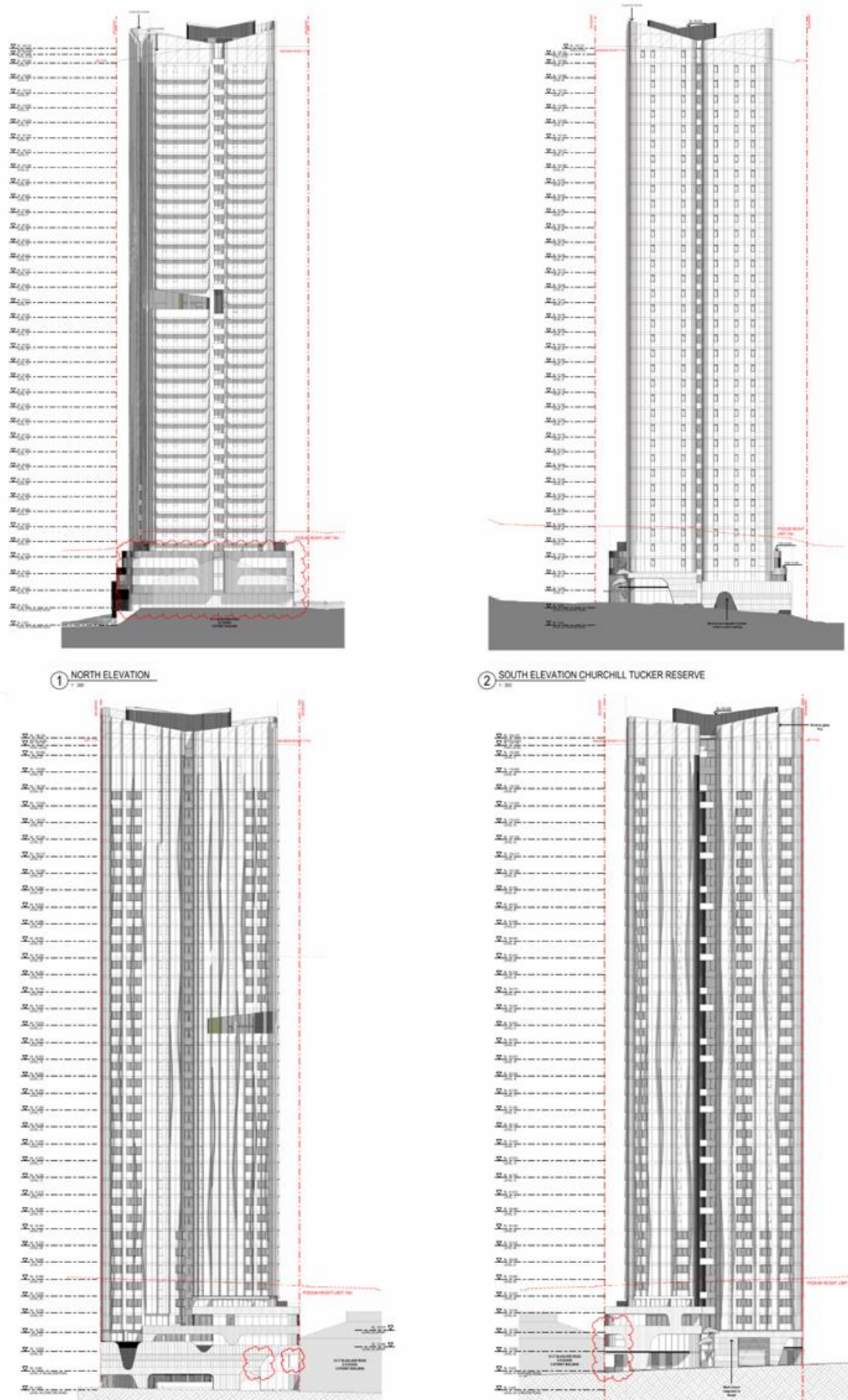


Figure 9 | Proposed Elevations (Source: Applicant's Architectural Plans)

2.2 Background

The proposal has been the subject of a competitive design competition in accordance with Clause 7.2 of the Canada Bay Local Environmental Plan 2013 (CBLEP 2013). The competition was conducted as an invited single-stage design competition with participation from three architectural firms:

- Group GSA
- Koichi Takada Architects (KTA)
- SJB Architects

The jury selected the Group GSA scheme as the competition winner, identifying it as the design most capable of achieving design excellence (reference: Design Excellence Competition Report, dated 18 April 2023).

The winning scheme has been further developed and improved based on recommendations from the Design Integrity Panel (DIP), which was formed after the competition. The Council also consulted with the DIP during the DA assessment process to ensure that design excellence was achieved.

A separate Development Application, DA2023/0206, was approved for the site on 7 November 2023, for the demolition of existing buildings down to the slab on the ground level with no excavation.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include [Table 2](#).

Table 2 | Section 4.15(1) Evaluation

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Council's consideration of the relevant EPIs is provided in Section 3.1 of this report.
(a)(ii) any proposed instrument	Nil
(a)(iii) any development control plan	Satisfactorily complies. The Council's consideration of the DCP is provided in Section 3.2 of this report.
(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into	There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.
(a)(iv) the regulations	The relevant provisions of the EP&A Regulation have been thoroughly reviewed, and any necessary actions are addressed in the recommended conditions.
(a)(v) (Repealed)	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the	The likely impacts of the development have been appropriately mitigated or conditioned.

natural and built environments, and social and economic impacts in the locality

(c) the suitability of the site for the development

The site is zoned MU1, where the proposed shop-top housing is permissible. Although the development does not strictly comply with all planning controls, it has been demonstrated that the objectives of the zone and controls are satisfied, making strict compliance in this case unnecessary and unreasonable. The potential amenity and environmental impacts are minimised through design solutions and conditions of consent. Any potential contamination on the site will be addressed during excavation through suitable conditions. The site is well-located with excellent access to transport infrastructure, and the proposal satisfies Ecologically Sustainable Development principles. These factors collectively demonstrate the suitability of the site for the proposed development.

(d) any submissions

16 public submissions were received. Consideration has been given to all submissions and to the advice from Government agencies (**Sections 3.4 and 4.1**).

(e) the public interest

The proposed development is considered to be in the public interest as it will provide commercial and residential accommodation without significant adverse environmental impacts.

It is noted that the proposal is considered to be:

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

which are considered further in this report.

3.1 Section 4.15(1)(a) (i) the provisions of any environmental planning instrument

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canada Bay Local Environmental Plan 2013

A summary of the key matters for consideration arising from these State Environmental Planning Policies (SEPP) are outlined in [Table 3](#).

Table 3 | Summary of applicable SEPP

SEPP	Matters for Consideration	Comply (Y/N)
SEPP (Biodiversity and Conservation) 2021 (BCSEPP)	<ul style="list-style-type: none"> Chapter 2 Vegetation in non-rural areas The removal of all trees on the site was approved under a separate Development Application (DA2023/0206) for the demolition of the existing building. The application was supported by the Arboricultural Assessment Report, which was reviewed by Council's tree management team. They had no objections to the removal of the trees, provided that appropriate replacements were proposed within the future landscape plan. This DA approved landscape plans that proposed adequate replacement planting. Chapter 6 Water catchments In accordance with Part 6.3 of the BCSEPP, the site falls within the foreshore or waterways area. The proposal is considered to be in line with the general considerations outlined in Section 6.28(1) and (2) of the BCSEPP. 	Yes
SEPP (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)	<p>BASIX SEPP applies to the residential portion of the development. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water, energy and thermal comfort standards that will promote a more sustainable development.</p> <p>The application is accompanied by BASIX Certificate No. 1418875M_04 prepared by Integreco dated 26 April 2024 committing to environmentally sustainable measures.</p> <p>The certificate demonstrates that the proposed development meets the thermal comfort target required by the BASIX SEPP, exceeds the water target by 21 points, and surpasses the energy target by 15 points.</p>	Yes
SEPP (Housing) 2021 (Housing SEPP)	<p>This DA is subject to the design regulations outlined in Chapter 4 of the Housing SEPP governing residential apartment development.</p> <p>As part of the assessment process, the proposed DA plans have been reviewed by the Design Integrity Panel (DIP), who undertook a detailed assessment of ADG and confirmed that the application was consistent with the objectives of the ADG controls.</p> <p>Council has undertaken a detailed assessment of the application against ADG controls and noted that compliance with ADG minimum deep soil area and solar and daylight access requirements are not fully achieved.</p>	Yes

Deep Soil

ADG requires 7% of the site with a minimum dimension of 6 meters to be provided as a deep soil zone. The proposal, however, only provides approximately 15 square meters of a narrow zone along the eastern boundary as deep soil. Given the site's location in a high-density area, achieving deep soil planting is challenging, especially considering the proposed excavation for nine basement car parking levels. Instead, the proposal offers acceptable deep planting solutions with varying depths implemented on slabs.

Solar and daylight access

According to ADG guidelines, the living rooms and private open spaces (POS) of at least 70% of the proposed apartments should receive a minimum of 2 hours of direct sunlight between 9 am and 3 pm. However, the applicant's solar analysis indicates that only 50% of the units would achieve this requirement. Meeting the ADG control is challenging due to the site's significant views of the harbour, and CBD is oriented southeast, away from the desired aspect for direct sunlight.

Given the above Council has been satisfied the application is consistent with objectives of the ADG controls

SEPP (Resilience and Hazards) 2021 (RHSEPP)	<p>In accordance with Clause 4.6 (1) Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.</p> <p>The proposal involves early work and excavation for nine basements. Suitable conditions are imposed to manage potential contamination issues that may arise during excavation.</p>	Yes
SEPP (Planning Systems) 2021 (PSSEPP)	<p>The proposal is deemed regionally significant development under Section 2.19 of the PSSEPP due to its CIV exceeding \$30 million, and the Sydney Eastern Planning Panel is the determining authority for the DA.</p>	Yes
SEPP (Transport and Infrastructure) 2021 (TISEPP)	<p>This DA is subject to Section 2.48 of the TISEPP for Developments likely to affect an electricity transmission or distribution network. The DA was referred to the local electricity service provider, Ausgrid, who raised no objections and provided comments and conditions.</p> <p>Section 2.122 applies for traffic-generating development, and S2.119 applies as the site is located on a classified road (Concord Road). TfNSW has reviewed the application and provided concurrence to DA, subject to compliance with its conditions.</p>	Yes

Sections 2.97, 2.98 and 2.99 apply as the development is located adjacent to the rail corridors. Sydney Trains has reviewed the application and provided concurrence to DA, subject to compliance with its conditions.

The relevant local environmental plan applying to the site is the Canada Bay Local Environmental Plan 2013 (CB LEP). The CB LEP aims to achieve high-quality urban form by ensuring that new development reflects the existing or desired future character of particular localities. The proposal is consistent with these aims. The LEP contains several development standards which apply to the proposed development. An assessment of the application against the relevant planning controls within BLEP 2012 is shown in [Table 4](#).

Table 4 | Consideration of the LEP controls

Control	Proposal	Comply
2.2 and 2.3 Zoning and Objectives MU1-Mixed Use Objectives of zone <ul style="list-style-type: none"> • To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities. • To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. 	<p>The proposed Shop-top housing is a permissible use with consent in MU1 Zone.</p> <p>The proposal is considered consistent with the zone objectives. It features 1333 sqm Commercial and 5 Retail premises on the podium levels generating employment near public transport options.</p> <p>It encourages a diversity of business and retail and provides active frontages on Blaxland Road, Concord Road, Churchill Tucker Reserve and possibly to the future Station Bridge Plaza.</p>	Yes
4.3 Height of Buildings Maximum 117m	The proposed building height reaches 123.5m.	Cl4.6 variation request, refer to section 3.1.1 of the report
4.4 Floor Space Ratio (FSR) Maximum 15.3:1	The maximum permissible FSR of the site is 15.3:1 under the CBLEP. Given the site area of 1,537 sqm, this allows for a GFA of 23,516.1 sqm. Clause 7.11 of the CBLEP provides a 5% bonus to the maximum FSR where certain BASIX commitments are exceeded. The BASIX	Yes

assessment for the proposed development indicates that it will exceed the BASIX SEPP requirements, thereby qualifying for the 5% FSR bonus. This results in a GFA of 24,691.9 sqm.

The architectural plans and GFA area calculation diagrams show that the proposed development has a maximum GFA of 24,691.2 sqm, which is compliant.

A condition of consent is required to ensure that the as-built plans comply with the maximum GFA prior to the issue of the Occupation Certificate.

4.6 Exceptions to development standards

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

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

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds

An exception to the following development standards is proposed and discussed further in **Section 3.1.1.**

- 1. Clause 4.3 Height of buildings
- 2. Clause 7.6 regarding building podiums in Rhodes Precinct

Clause 4.6(8) identifies the standards that cannot be varied, and these clauses are not specified under 4.6(8).

Yes

to justify the contravention of the development standard.

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clauses 6.4 and 6.5,
- (cb) clause 6.10,
- (cc) clauses 7.3 and 7.8(2)(a)–(c).

5.6 Architectural roof features

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

- (a) to allow minor architectural roof features to exceed height limits,
- (b) to ensure that any architectural roof feature does not cause an adverse visual impact or adversely affect the amenity of neighbouring properties,
- (c) to ensure that architectural roof features are considered in the design of a building and form an integral part of a building's design.

The application comprises the following features above the roof:

Vertical glass wind mitigation screening, which emphasizes the smooth form vertically.

A canopy forest that crowns the building above the glazed facade and amenity below.

A screen to enclose roof plant and services, providing acoustic benefits.

The applicant, with the support of DIP, requested these items be considered as architectural roof features to justify the building height

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- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that—
- (a) the architectural roof feature—
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.
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exceedance. However, Council does not support this claim as the height of the screening walls reaches up to 7.3 meters, which is not considered minor. The building height exceedance is instead being considered through a Clause 4.6 variation request.

6.2 Earthworks

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
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The proposal includes excavation to accommodate nine basements, with stringent conditions imposed to ensure that the earthworks do not negatively impact environmental functions, neighbouring land uses, or surrounding area features. These conditions address drainage patterns, soil stability, fill material quality, and the exportation of excavated soil, ensuring compliance with relevant EPA guidelines. Measures are also in place to safeguard the amenity of adjoining properties during construction.

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- (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
 - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
-

6.5 Active street frontages

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages.
- (2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
- (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—
 - (a) entrances and lobbies (including as part of mixed use development),
 - (b) access for fire services,
 - (c) vehicular access.
- (5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the

<p>The site boundary along Blaxland Road, Churchill Tucker Reserve and future Station Bridge Plaza is identified as requiring an active street frontage, as outlined in the CBLEP Active Street Frontages Map. The proposal includes retail tenancies and commercial premises on these boundaries, aligning with the requirements stated in clause 6.5(5).</p> <p>The only parts of the building that do not provide active frontages are the lobbies and areas necessary for fire services, including booster assemblies and fire stairs, which are exceptions allowed under clause 6.5(4).</p>	<p>Yes</p>
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purposes of amusement centres, centre-based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, function centres, industrial retail outlets, information and education facilities, light industries, medical centres, mortuaries, public administration buildings, recreation facilities (indoor), registered clubs or veterinary hospitals.

6.9 Arrangements for designated State public infrastructure

(Clause has since been repealed but remains relevant to this DA)

(2) Despite all other provisions of this Plan, development consent must not be granted for development for the purposes of residential accommodation (whether as part of a mixed use development or otherwise) in an intensive urban development area that results in an increase in the number of dwellings in that area, unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land on which the development is to be carried out.

(3) This clause does not apply to development on—

(a) land in an intensive urban development area if all or part of the land is in a special contributions area, or

(b) land identified as “Burwood-Concord Precinct”, “Homebush North Precinct” or “Kings Bay Precinct” on the Key Sites Map.

(4) In this clause and clause 6.10—

intensive urban development area means the area of land identified as “Intensive Urban Development Area” on

Clause 6.9 of the CB LEP was repealed on 1 October 2023, but it remains applicable to this application since it was lodged before this date.

The site has been identified as an Intensive Urban Development Area under CB LEP.

Satisfactory arrangements need to be made for the provision of designated State public infrastructure.

The DA was referred to the Department of Planning, Housing and Infrastructure (DPHI), who certified that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure (SVPA2023-57 dated 13 May 2024).

Yes

the Intensive Urban Development Area Map.

6.10 Public Utility Infrastructure

(1) Development consent must not be granted for development on land in an intensive urban development area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

public utility infrastructure, in relation to an intensive urban development area, includes infrastructure for any of the following—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

The site is identified within an Intensive Urban Development Area according to CB LEP. The Application was referred to Ausgrid and Sydney Water, with Ausgrid providing arrangements for electricity supply and Sydney Water confirming water and wastewater servicing potential, subject to minor adjustments, with detailed requirements to be provided during the S73 application stage.

Yes

6.11 Mix of dwelling sizes in residential flat buildings and mixed use development

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

(a) to ensure the provision of a mix of dwelling types in residential flat buildings and provide housing choice for different demographics, living needs and household budgets,

(b) to promote development that accommodates a range of household sizes.

(2) This clause applies to development for the following purposes that results in at least 10 dwellings—

- (a) residential flat buildings,
- (b) mixed use development that includes shop top housing.

(3) Development consent must not be granted to development to which this clause applies unless—

- (a) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will

The following mix is provided:

- 58 x studios and one-bedroom apartments 23.7%
- 96 x two-bedroom apartments 39.3%
- 90 x three or more bedroom apartments 36.8%

Yes

be studio or 1 bedroom dwellings, and

(b) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will have at least 3 bedrooms.

6.12 Affordable housing

(2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable affordable housing levy contribution for the development specified in subclauses (2A)–(6A).

(2A) The affordable housing levy contribution for development in Area 4 is 3.5% of the relevant floor area that exceeds the floor space achieved by applying a floor space ratio of 1.76:1.

The site is located within the Rhodes East affordable housing contribution area, and therefore, 5% of the relevant floor area is to be provided as an affordable housing contribution.

The Applicant has opted to fulfil Clause 6.12 through a monetary contribution made to the Council.

Yes

Part 7 Rhodes Precinct

7.1 Objectives of Part

The objectives of this Part are as follows—

(a) to achieve the highest standard of architectural and urban design in the Rhodes Precinct by ensuring that new development exhibits design excellence, including excellence in sustainably managing the environmental impact of the development on existing and future populations,

(b) to allow for a mix of land uses that will—

(i) provide an appropriate balance between residential, retail, commercial and other land uses within the Rhodes Precinct, and

(ii) encourage the provision of a range of services and facilities to help meet the needs of the population and users of the Rhodes Precinct, and

(iii) generate employment in the Rhodes Precinct, and

The development is generally in line with the objectives of Part 7 of the LEP, as it attains design excellence through compliance with conditions of consent.

Upon completion, it will offer a diverse mix of land uses, including residential, retail, and commercial spaces, meeting the diverse needs of the community and fostering employment opportunities.

Additionally, the proposal includes plans for a vibrant facade and communal open areas, which enhance the appeal of the Rhodes precinct. Overall, the proposed development is considered suitable for the area.

Yes

-
- (iv) establish a significant new people-oriented public domain and foreshore area and other vibrant public plazas and public spaces,
 - (c) to support growth in the Rhodes Precinct by ensuring the provision of appropriate infrastructure that is sensitive to environmental impacts.
-

7.2 Design Excellence in Rhodes Precinct

(3) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
 - (c) whether the development detrimentally impacts on view corridors,
 - (d) how the development addresses the following matters—
 - (i) the requirements of a development control plan made by the Council and applying to the land on the commencement of this clause,
 - (ii) the suitability of the land for development,
 - (iii) existing and proposed uses and use mix,
 - (iv) heritage issues and streetscape constraints,
 - (v) the relationship of the development with other development, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (vi) bulk, massing and modulation of buildings,
 - (vii) street frontage heights,
-

A design competition preceded the lodgement of the development application (DA), during which the Jury selected the scheme with the greatest potential for design excellence. Following the competition, a Design Integrity Panel (DIP) was established to oversee the design's evolution in alignment with DIP/Jury recommendations.

Yes

Throughout the DA assessment process, DA was presented to DIP and Council sought advice from the DIP regarding design quality. The DIP confirmed that the DA design exhibited excellence and can proceed to DA determination and approval.

-
- (viii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (ix) the achievement of the principles of ecologically sustainable development,
 - (x) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (xi) the impact on, and any proposed improvements to, the public domain,
 - (xii) achieving appropriate interfaces at ground level between the building and the public domain,
 - (xiii) excellence and integration of landscape design.
-

7.3 Overshadowing of public places in Rhodes Precinct

(1) Development consent must not be granted to development that results in a building causing additional overshadowing of a public place identified on the Sun Access Protection Map on 21 June in any year, during the time specified for the public place in the following table—

Public place

Brays Bay Reserve

8:30am–12:30pm

McIlwaine Park Primary Zone

8:30am–2pm

McIlwaine Park Secondary Zone

8:30am–12:30pm

Union Square

9am–2pm

The subject site opposes Union Square and McIlwaine Park and is within proximity to Brays Bay Reserve; therefore, this clause applies.

The shadow analysis drawings, numbered DA-9000, Revision A, prepared by Group GSA on 1 September 2023, demonstrate compliance with Clause 7.3.

Yes

7.4 Minimum non-residential floor space in Rhodes Precinct

The site is subject to a minimum non-residential floor area of 5.4%.

The proposal provides a non-residential floor space of 1,333.4 sqm, which is compliant.

Yes

7.5 Minimum building separation and maximum floor areas above building podiums in Rhodes Precinct

(1) Development consent must not be granted to development that results in a building in the Rhodes Precinct being separated from another building by less than—

(a) for a building higher than 14 storeys but not higher than 20 storeys—24 metres, or

(b) for a building higher than 20 storeys—40 metres.

(2) Development consent must not be granted to development that results in the gross floor area of a floor of a building in the Rhodes Precinct exceeding 750 square metres.

(3) This clause does not apply in relation to the podium of a building in the Rhodes Precinct.



Yes

Given that the maximum permissible building height on the adjoining property is 66m, no building higher than 20 storeys can be built on that side. Consequently, a 24m building separation between the lots is required. The proposal provides a 7m setback of the tower to the north. However, a 16m wide Station Bridge Plaza will be delivered between the two planned developments, and the tower on the northern site must be set back 4m from the podium level to the bridge plaza.

Given the above, the proposal is compliant with the minimum building separation requirements of the LEP.

7.6 Maximum height of building podiums in Rhodes Precinct

Development consent must not be granted to development that results in the podium of a building in the Rhodes Precinct being higher than 16 metres.

The podium is compliant with the maximum height of building podiums; however, the podium has not been delivered to the south fronting the Churchill Tucker reserve.

CI4.6 variation request, refer to section 3.1.1 of the report

7.7 Maximum number of dwellings in Rhodes Precinct

(1) Development consent must not be granted to development that results in more than 3,000 dwellings in the Rhodes Precinct.

244 dwellings are provided and will be recorded by Council.

Noted

7.8 Maximum number of car parking spaces for uses of land in Rhodes Precinct

(1) Development consent must not be granted to development that results in the number of car parking spaces provided in connection with a use of land in the Rhodes Precinct exceeding the maximum specified in this clause.

(2) The maximum number of car parking spaces is as follows—

(a) for commercial premises other than retail premises—1 space per 150 square metres of gross floor area used for that purpose,

(b) for retail premises other than restaurants or cafes—1 space per 100 square metres of gross floor area used for that purpose,

(c) for restaurants or cafes—1 space per 150 square metres of gross floor area used for that purpose,

(d) for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing—

(i) 0.6 spaces per studio dwelling, and

(ii) 0.6 spaces per dwelling with 1 bedroom, and

(iii) 0.9 spaces per dwelling with 2 bedrooms, and

(iv) 1.4 spaces per dwelling with 3 or more bedrooms, and

(v) 1 visitor car parking space per 7 dwellings.

S & 1B (58 X 0.6) = 34.8

2B (96 X 0.9) = 86.4

3B (90 X 1.4) = 126

Visitor (244/7) = 34.8

Commercial 1333.4sqm/150=8.8

Total=290.8

The application includes a Transport Impact Assessment, prepared by Stantec, dated 25 September 2023 and reviewed by the Council Traffic team. Yes

A total of 203 car spaces are provided, allocated as follows:

144 for residential use

8 for visitors

9 spaces for commercial & retail

5 car share spaces

7.9 Water reticulation systems for buildings in Rhodes Precinct

Development consent must not be granted to the erection of a building in the Rhodes Precinct unless the building utilises a dual water reticulation system containing pipes for potable water and

This requirement will be conditioned upon approval.

Compliance will be achieved upon fulfilment of the conditions of consent.

recycled water for all internal and external water uses.

7.10 Site area of proposed development in Rhodes Precinct includes dedicated land

The site area of proposed development on land in the Rhodes Precinct is, for the purpose of applying a floor space ratio under clause 4.5, taken to include land that—

- (a) is dedicated to the Council for a public purpose or otherwise set aside as publicly accessible open space or as a pedestrian link, and
- (b) would have been part of the site area if it had not been dedicated or set aside.

No portion of this area was required to be dedicated to the Council. Noted

The maximum Floor Space Ratio applies to the entire site area.

7.11 Additional floor space for certain BASIX affected buildings in Rhodes Precinct

(1) A BASIX affected building on land in the Cavell Avenue Character Area, Leeds Street Character Area or Station Gateway East Character Area may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 5% if the building—

- (a) exceeds the BASIX commitment for energy for the building by at least 15 points and
- (b) exceeds the BASIX commitment for water for the building by at least 20 points.

The subject site is located within the Station Gateway East Character Area. Yes

The BASIX certificate demonstrates a commitment to exceeding energy requirements by at least 15 points and water requirements by at least 21 points above the BASIX SEPP standards, qualifying the development for a 5% FSR bonus.

7.20 Minimum lot size for shop top housing in Station Gateway East Character Area

Development consent must not be granted to development for the purposes of shop top housing on a lot in the Station Gateway East Character Area unless the area of the lot is equal to or greater than 1,500 square metres.

The Site area is 1537 sqm

Yes

3.1.1 Clause 4.6 Variation requests

3.1.1.1 To Clause 4.3 Height of buildings

Figure 10 and **Table 5** Indicate the extent of the proposal's non-compliance with the planning control for the height of buildings.

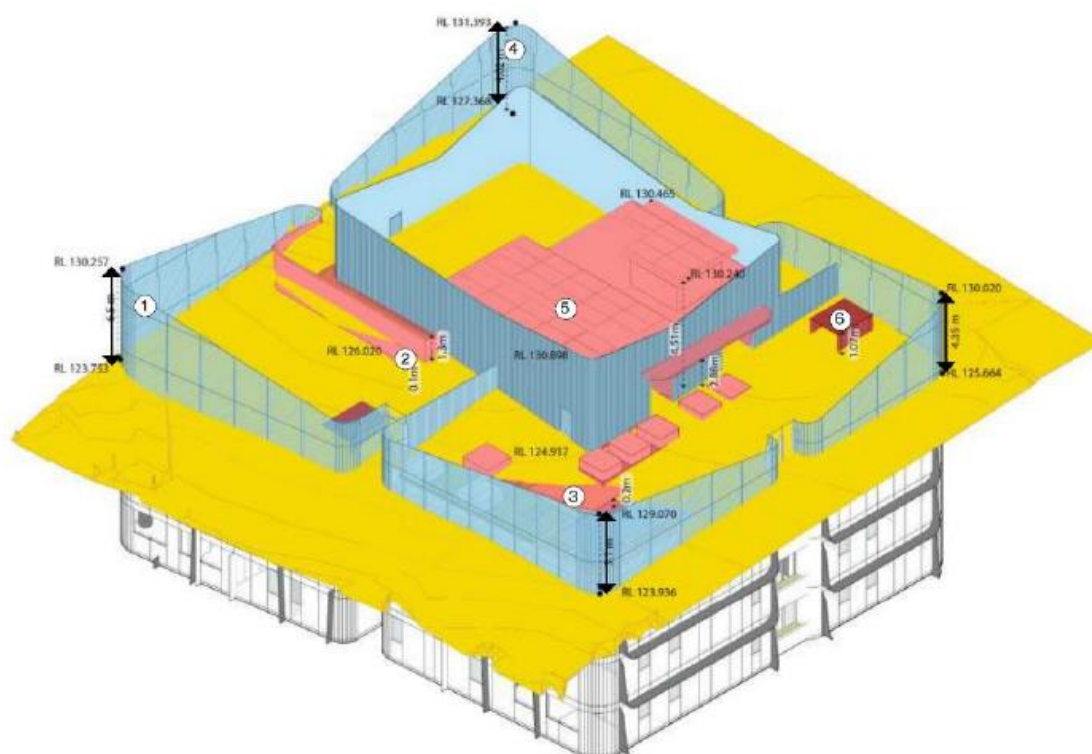


Figure 10 | Height analysis in comparison with maximum standard height plane (Source: Applicant's Clause 4.6 variation request)

Table 5 | Clause 4.6 variation request to Clause 4.3 Height of buildings standard

4.3 Height of buildings	Development standard	Proposed Building height	Proposed variation
<p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> (a) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces, (b) to protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of— <ul style="list-style-type: none"> (i) visual and acoustic privacy, and (ii) solar access and view sharing, (c) to establish a transition in scale between medium and high density centres and adjoining lower density and open space zones to protect local amenity, (d) to ensure that buildings respond to the natural topography of the area. <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>Maximum Building Height 117m</p>	<p>123.5m</p>	<p>6.5m (5%)</p>

The Applicant Clause 4.6 variation request to the maximum height of the building under clause 4.3 of the CB LEP (**Attachment E**), prepared by Gyde, dated 22 September 2023, states that

the proposal satisfies the requirements of Clause 4.6, demonstrating that strict compliance with the maximum building height is unnecessary and unreasonable.

It is agreed that the height of buildings control under s4.3 of the CB LEP is a development standard and is not excluded from the application of s4.6 of the CB LEP.

It is assessed that, in satisfaction of s4.6(3)(a), compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposal, notwithstanding the non-compliance, is consistent with the relevant objectives of the development standard. It is compatible with the desired high-density future character, and the minor additional overshadowing caused by the building height variation is negligible.

It is assessed that, in satisfaction of s4.6(3)(b), there are sufficient environmental planning grounds to justify the non-compliance, as the development achieves better outcomes through:

- Enhanced architectural and urban design, as the non-compliant elements (enclosed plant, lift overrun, and a cabana) ensure sustainable design and equitable access without resulting in adverse environmental impacts.
- Improved residential amenity for the users of the proposed communal open space area on the roof.

Thus, compliance with the maximum building height is not required, as the proposed variation aligns with the objectives and provisions of Clause 4.6, contributing to the overall public interest and urban design quality.

3.1.1.2 To Clause 7.6 Maximum height of building podiums in Rhodes Precinct

Clause 7.6 of the Canada Bay Local Environmental Plan (LEP) indicates that development consent must not be granted for developments that raise the podium of a building in the Rhodes Precinct by more than 16 metres. While the proposed development appears to be numerically compliant, as the provided podiums have a height of less than 16 metres, the proposal lacks a podium on the south elevation, with the entire tower extending to the ground level at the zero boundary.

The intention of this planning control, as detailed in the Canada Bay Development Control Plan (DCP), is to promote a tower and podium building typology in the Rhodes Precinct. The podium serves to mediate the transition between the human-scale street environment and the taller tower, ensuring that the building does not overwhelm the street level and surrounding lower-rise buildings.

The Applicant has submitted a Clause 4.6 variation request for Clause 7.6 of the CB LEP concerning the maximum height of building podiums in the Rhodes Precinct. This request, prepared by Gyde, dated 18 July 2024 (**Attachment E**).

It is noted that Clause 7.6 of the LEP is a development standard and is not excluded from the application of s4.6 of the LEP.

It is assessed that, in satisfaction of s4.6(3)(a), compliance with the standard is unreasonable and unnecessary as the underlying purpose of this clause is not relevant to the circumstances of this case. The southern facade, where the variation is requested, adjoins the Churchill Tucker Reserve, which is lined with tall fig trees reaching up to 25 meters in height and with a canopy spread of 33 meters. These trees will effectively provide a green screen to the tower's facade, mitigating its dominance and bulk.

It is assessed that, in satisfaction of s4.6(3)(b), there are sufficient environmental planning grounds to justify the minor non-compliance. The development achieves better outcomes given the constraints of the small site for a 37-storey building. A 4-meter tower setback from the podium, if adhered to, would significantly constrain the design, leaving insufficient space to accommodate the units and effectively deliver the proposed housing.

Accordingly, it is considered that the consent authority can be satisfied with the Clause 4.6 variation to Clause 7.6 of the CB LEP.

3.2 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- the City of Canada Bay Development Control Plan ('the DCP')
 - Part A – Introduction
 - Part B - General Controls
 - Part K - K16 Rhodes East
 - Part L – Definitions
 - Appendix 2 - Engineering Specifications

The proposal is situated within the Station Gateway East character area. An assessment of the proposed development against the relevant provisions of the DCP indicates that it is generally consistent with these provisions. However, it does not comply with controls C4 and C5 regarding tower and podium design. The DCP controls and diagrams are as follows (refer to [Figure 11](#)). The not compliance has been discussed and justified in the section [3.1.1.2](#) of this report.

- *C4. A minimum podium height of approximately 14-16m building height is required.*
- *C5. A tower and podium building typology is required, subject to the following outcomes: a) A ground floor setback of 3m is to be provided. b) A Podium to Tower setback of 4m is to be provided. c) Maximum 1/3 of a tower frontage along a street or public space can be extended down to the ground. Public gathering areas must be associated with the 2/3 of the facade that is grounded by a podium.*

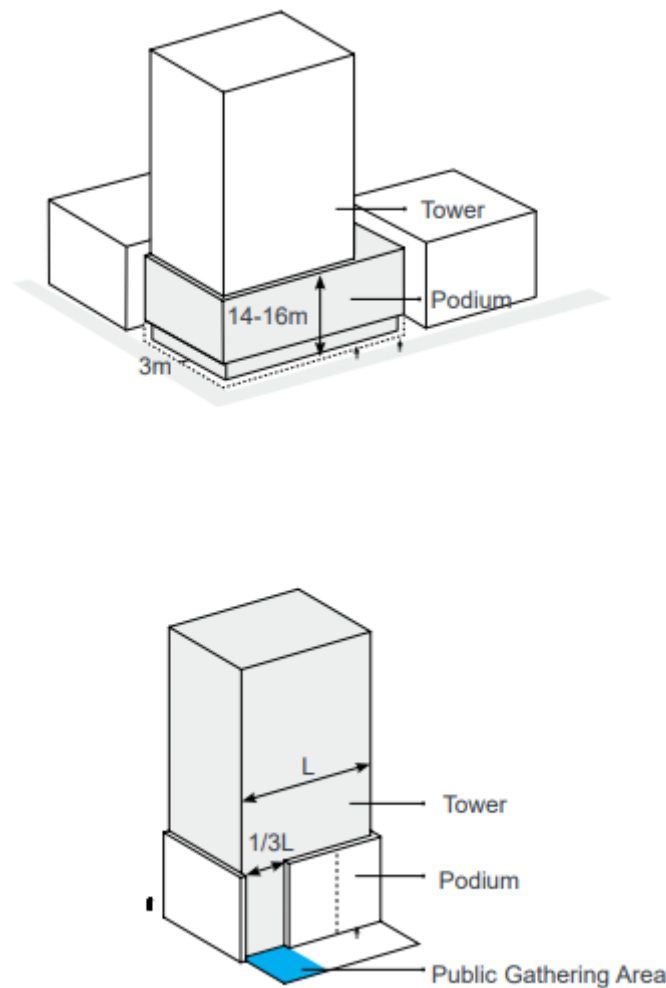


Figure 11 | Tower and Podium Design control diagrams (Source: Canada Bay DCP)

The following contribution plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- City of Canada Bay Local Infrastructure Contributions Plan, Adopted 15 February 2022

This Contributions Plan has been considered and included the recommended draft consent conditions.

3.3 Section 4.15(1)(d) - Public Submissions

The proposal was notified from 19 October to 16 November 2023. Council received 16 unique submissions.

The issues raised in these submissions are considered in [Table 6](#).

Table 6 | Summary of public submissions

Issue	Response
Station Bridge Plaza connection unviable	The detailed design and delivery method of the Station Bridge Plaza are uncertain.

	<p>However, the proposed design offers flexibility for adjustments to ensure activation and future connectivity to the plaza.</p>
Insufficient active frontage	<p>The proposal meets active street frontages required under Clause 6.5 of the CB LEP as explained in section 3.1 of this report.</p>
Insufficient building separations	<p>The proposal meets the building separation required under Clause 7.5 of the CB LEP as explained in section 3.1 of this report.</p>
Adverse traffic impacts (during construction and operation)	<p>The Traffic Impact Assessment prepared by Stantec (dated 25 September 2023) evaluated the potential traffic impacts of the proposed development and found that it would generate a net increase of only two to four trips during peak hours. This increase is expected to have a negligible impact on the existing conditions at the Concord Road/Blaxland Road intersection. Traffic management during construction will be handled by a Traffic Control Management Plan (TCMP), which is recommended be conditioned as part of the approval.</p>
Overshadowing impacts on public spaces	<p>According to the applicant's response to the submission, prepared by Gyde dated 19 February 2024, the proposed development fully complies with the Council's overshadowing controls. The development does not cause any non-compliant overshadowing to adjacent public spaces, including Brays Bay Reserve, McIlwaine Park (Primary and Secondary Zones), and Union Square.</p>
Building height control exceedance	<p>Addressed in section 3.1 of the report.</p>
Overdevelopment of the site	<p>The development aligns with the Floor Space Ratio (FSR) controls for the high-density MU1 zone, supporting transit-oriented growth aimed at addressing the housing crisis.</p>
Inadequate Wind Study	<p>The Pedestrian Wind Study by RWDI, submitted with the DA, assessed wind safety and comfort in detail. It evaluated predicted wind conditions for pedestrian areas and proposed mitigation measures to address potential issues of increased wind activity that could create unsafe or uncomfortable conditions for pedestrians.</p>

	Adherence to the recommendations of the study will be conditioned upon approval.
Inadequate fire study	A Fire Safety Report prepared by Minerva for the proposed development, including an updated version addressing performance solutions, confirms that appropriate fire safety measures will be in place. This ensures that there will be no safety concerns for the residents of the development.
Lack of visual privacy	The proposal meets the building separation requirements under Clause 7.5 of the CB LEP and the Apartment Design Guide, thereby ensuring privacy for both residents and adjoining neighbours.
Amenity impacts during construction	Conditions of consent are recommended to be implemented to ensure proper management of these impacts during construction.
Water quality impacts	<p>The response prepared by Gyde on 19 February 2024 confirms that the proposal includes an on-site detention (OSD) system, rainwater harvesting, mechanical pump-out, and a water-sensitive urban design (WSUD) approach. The OSD tank with multiple chambers addresses rainwater harvesting, water quality treatment, and stormwater detention, meeting DCP and BASIX requirements.</p> <p>The development complies with setback and separation controls and, being in Rhodes and away from the waterway, will not obstruct waterway access or impact Brays Bay's water quality. The proposal aligns with Chapter 6 of the Biodiversity and Conservation SEPP.</p> <p>A Soil and Water Management Plan will be prepared by the contractor if approved, ensuring erosion and sediment control measures are in place before major site works, in compliance with relevant legislation.</p>

4. REFERRALS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in [Table 7](#).

Table 7 | Concurrence and Referrals to agencies (CNR-58744)

Date	Comments/Conditions
Ausgrid	no objections subject to conditions.
Sydney Trains	Provided concurrence subject to conditions.
Air Services Australia	no objection.
Transport for NSW	Provided concurrence subject to conditions.
Sydney Water Corporation	no objections subject to conditions.
WaterNSW	WaterNSW provided the General Terms of Approval (GTA) on 5 July 2024, and it has been incorporated into the recommended conditions.

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review, as outlined in [Table 8](#).

Table 8 | Consideration of Council Referrals

Date	Comments/Conditions
Traffic	no objections subject to conditions.
Engineering	no objections subject to conditions.
Building	no objections subject to conditions.
Environmental Health Unit	no objections subject to conditions.
Waste	no objections subject to conditions.
Landscape and tree management	no objections subject to conditions.

5. CONCLUSION

This development application has been thoroughly reviewed in accordance with the requirements of the EP&A Act and Regulations, as detailed in this report. After careful consideration of relevant planning controls and submissions, the application is deemed supportable.

Situated in an area with excellent access to public transport, the inclusion of non-residential floor space in the podium levels enhance the vibrancy of the Rhodes precinct.

Furthermore, the proposed design ensures high-quality development, prioritising internal amenity for future occupants while minimising adverse impacts on neighbouring properties. Any potential impacts during construction and operation will be appropriately addressed through the recommended conditions of consent outlined in **Attachment A**.

Accordingly, it is recommended:

1. THAT the Sydney Eastern City Planning Panel determine that the section 4.6 variations relating to the height of buildings, and building podium satisfactorily demonstrate that compliance is unreasonable and unnecessary in the circumstances

of this case, that there are sufficient environmental planning grounds to justify each non-compliance and that, notwithstanding the non-compliances, the proposed development will be in the public interest.

2. THAT the Sydney Eastern City Planning Panel grants Consent pursuant to section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 to Development Application DA2023/0222 for the excavation of 9 basements, and construction of a 37-storey mixed-use building with open spaces and landscaping at 9-13 Blaxland Road, Rhodes subject to the recommended conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Recommended Conditions of Consent
- Attachment B: Design Integrity Panel endorsement letter
- Attachment C: Architectural Plans
- Attachment D: Public Submissions
- Attachment E: Clause 4.6 Requests