

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-341 - DA-2024/286
PROPOSAL	Integrated Development - Demolition of existing structures and construction of a twelve-storey mixed use development consisting of two commercial tenancies at ground floor level with residential co-living above, basement car parking and landscaping
ADDRESS	465-469 Princes Highway and 5-7 Geeves Avenue, Rockdale Lot A DP 306355, Lot A DP 315664, Lot B DP 315664, Lot 1 DP 131822, Lot A DP 402977, Lot B DP 402977
APPLICANT	Emag Apartments Pty Ltd
OWNER	Choi Kwan Lam Chan, Lynette Chan, Glenda Roberts, Andrew Beehag & Ian Beehag
DA LODGEMENT DATE	18 October 2024
APPLICATION TYPE	Integrated Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: General development that has an estimated development cost of more than \$30 million.
CIV	\$30,333,381.00 (excluding GST) \$33,366,719.00 (including GST)
CLAUSE 4.6 REQUESTS	BLEP 2021 - Clause 4.3 – Building Height
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>

	<ul style="list-style-type: none"> • <i>Bayside Local Environmental Plan 2021</i> • <i>Bayside Development Control plan 2022.</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	One (1)
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural Plans Landscape Plans Statement of Environmental Effects Clause 4.6 – Exception to Development Standards Request (Building Height) Acoustic Report Wind Report Traffic Impact Assessment Report Plan of Management
HOUSING PRODUCTIVITY CONTRIBUTIONS	Yes
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	8 July 2025
PLAN VERSION	16 September 2024, Revision A
PREPARED BY	Ayse Lavorato – Development Assessment Planner
DATE OF REPORT	24 June 2025

EXECUTIVE SUMMARY

The development application (DA-2024/286) seeks consent for Integrated Development - demolition of existing structures and construction of a twelve-storey shop top housing development consisting of two commercial tenancies at ground floor level with residential co-living above, basement car parking and landscaping. The subject site is a consolidation of six (6) lots and is known as 465-469 Princes Highway and 5-7 Geeves Avenue, Rockdale (Lot A DP 306355, Lot A DP 315664, Lot B DP 315664, Lot 1 DP 131822, Lot A DP 402977, Lot B DP 402977). The combined sites are irregular in shape and have three street frontages. The primary frontage is to Princes Highway of 21.32m to the east, the secondary frontage to Geeves Avenue of 36.905m to the south, the tertiary frontage to Geeves Lane of 30.265m to the west, and the northern side frontage (to 463 Princes Highway) of 35.96m. The total site is calculated to have an area of 927.3m².

The sites contain single and two storey commercial premises with frontage to all three frontages. The adjoining development to the north at 463 Princes Highway contains a single storey commercial premises. To the rear of the site to the west is a commuter car park owned by Sydney Trains, and beyond is Rockdale Train Station.

The subject site is located within the vicinity of Heritage Item I357 - Rockdale Railway Station and Yard Group. The site does not contain any vegetation, however there are existing street trees within the public domain to Princes Highway (eastern frontage). The site is affected by the ANEF 20-25 contour and is impacted by aircraft noise. The site is also affected by the Obstacle Limitation Surface (OLS) which is set at 51m AHD, where the proposed building height obstructs the OLS proposing a maximum building height of RL 55.08m AHD.

The site is located in the E1 Local Centre Zone pursuant to Clause 2.2 of the *Bayside Local Environmental Plan 2021* ('LEP 2021'). *Commercial development is permissible in the Zone, however, co-living developments are prohibited.* Nevertheless, pursuant Section 67 (b) of the SEPP (Housing) 2021, co-living is permitted in a zone where shop top housing is permissible. As such, the proposed mixed use development is subsequently permitted.

The site is restricted to a maximum building height of 34m. The proposal seeks to vary the maximum permitted building height by 5.9m (17.3%), proposing the building to be 39.9m (RL 55.08m AHD). A cl4.6 variation request to vary s4.3 of the BLEP is assessed and not supported in this instance.

The application is referred to the Sydney Eastern City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (2) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is general development that has an estimated development cost of more than \$30 million.

The Panel was briefed with the application originally on 30 January 2025, and then subsequently on 4 April 2025. Key issues were discussed at the meeting which are identified below. The second briefing followed the applicant's appeal of the application in the Land and Environment Court on 11 March 2025. The applicant was issued an additional information request; however, no further information has been submitted. Therefore, all the issues originally raised remain applicable, including:

1. **Design Excellence** – The proposal is subject to s6.10 Design Excellence under the BLEP 2021. The Design Review Panel has requested amendment and is not satisfied.
2. **Height of Building** – The maximum permitted building height under cl4.3 of the BLEP 2021 is 34m. The proposal seeks approval for a maximum building height of 39.9m which results in a variation of 5.9m or 17.3%. The submitted variation request does not sufficiently address the requirements of cl4.6 of the BLEP and therefore is not supported.
3. **Car Parking** – The proposal results in a deficiency in car parking having regard to the provisions of both SEPP (Housing) 2021 Chapter 3 – Part 3 – 68(2)(e) and Part 3E of the BDCP. Further, the variation to car parking under the provisions of the SEPP requires a written variation request as it is a departure from a non-discretionary development standard. No variation request has been submitted, therefore cannot be supported.
4. **Solar Access** – The proposal provides insufficient information to demonstrate solar compliance with SEPP (Housing) 2021 Chapter 3 – Part 3 – 69 (2)(c).
5. **Building Separation** – The proposal does not comply with the ADG building separation requirements under 2F & 3F as required by SEPP (Housing) 2021.
6. **Aircraft Noise** – The subject site is affected by the ANEF 20-25 contour and will result in the increase in the number of dwellings and people on the site under cl6.8 of the BLEP. An Acoustic Report was submitted for assessment, however, does not provide assessment for aircraft noise. Therefore, the application provides insufficient information to determine impacts.

7. **Inconsistency in drawings** – There is an inconsistency between plans submitted which do not allow for the accurate assessment of amenity impacts, solar access, communal open space, or landscaping.
8. **Amalgamation Pattern** – The proposed Amalgamation Pattern is inconsistent with that of the DCP and gives rise to a number of issues with amenity and building separation due to the reduced site area relative to the DCP envelope.
9. **Plan of Management** – The Plan of Management lacks sufficient detail with regards to site operations and ongoing use.
10. **Sydney Trains** - Sydney Trains was referred in accordance with s2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.
11. **Sydney Airport** - Sydney Airport was referred in accordance with cl6.7 of the BLEP 2021. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.
12. **WaterNSW** – WaterNSW was referred in accordance with s90(2) of the Water Management Act as the proposal is for integrated development and requires approval for water supply works. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.
13. **Contamination** – The proposal provides insufficient information to satisfy the provisions of Chapter 4 – Remediation of Land under SEPP (Resilience and Hazards) 2021.
14. **Stormwater** – The proposal provides insufficient information to satisfy the provisions of cl6.3 of the BLEP 2021. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.
15. **Landowners Consent** - TfNSW records indicate that Geeves Avenue adjoining the subject site is owned by TAHE. The Proposed Development relies on access from Geeves Avenue and includes works along the pedestrian walkway within TAHE land. Relevant owners' consent was requested, however has not been obtained.

These issues, along with the other critical issues, are still considered in this report in terms of site suitability and the merits of the proposal as currently presented and accordingly contribute to the reasons for refusal.

Jurisdictional prerequisites to the grant of consent imposed by the following controls which have not been satisfied include:

- Section 4.6 of the Transport and Infrastructure SEPP for consideration of whether the land is contaminated;
- Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') to obtain approvals from WaterNSW as the application is for integrated development; and
- Clause 6.7 of the Bayside LEP 2021 for referral to Sydney Airport as the proposal will intercept the maximum OLS.

A referral to Sydney Trains pursuant to s2.99 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') was sent which required additional information for assessment, however no further information has been received. TfNSW, Sydney Water, and Ausgrid were also consulted and have not raised objections, subject to the imposition of recommended conditions of consent.

The proposal was notified in accordance with the DCP from 31 October 2024 until 2 December 2024. One (1) submission was received which is generally in support of the proposal and only raises an issue with the treatment of the setbacks and configuration of the commercial ground floor component as discussed in this report.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA-2024/286 is recommended for refusal subject to the reasons contained at **Attachment A** of this report.

The application is subject of an appeal at the Land and Environment Court (deemed refusal) and an assessment of the development application (DA-2024/286) has been completed at the request of the panel.

1. THE SITE AND LOCALITY

1.1 The Site

The subject site comprises six lots located on the western side of Princes Highway known as Nos. 465-469 Princes Highway and 5-7 Geeves Avenue, Rockdale. The legal description of the sites is Lot A and Lot B in DP 315664, Lot A in DP 306355, Lot A and B in DP 402977 and Lot 1 in DP 131822.

Figure 1 below illustrates the location of the subject site (highlighted red). The combined sites are irregular in shape and have three site frontages. The primary frontage is to Princes Highway of 21.32m to the east, the secondary frontage to Geeves Avenue of 36.905m to the south, the tertiary frontage to Geeves Lane of 30.265m to the west, and the northern side frontage (to 463 Princes Highway) of 35.96m. The total site is calculated to have an area of 927.3m².

The subject site is located within the vicinity of Heritage Item I357 - Rockdale Railway Station and Yard Group. The site does not contain any vegetation, however there are existing street trees within the public domain to Princes Highway (eastern frontage).



Figure 1: Satellite image of the subject site highlighted red.



Figure 2: Site Photos of existing development to the southern Geeves Avenue frontage (left) and the eastern Princes Highway frontage (right).



Figure 3: Site photos of the existing development to Geeves Avenue (left) and Geeves Lane (right).



Figure 4: Site photos of the Rockdale Railway line to the western rear frontage (left) and nearby Shop Top Housing development at 433-439 Princes Highway (right).

1.2 The Locality

The sites contain single and two storey commercial premises with frontage to all three frontages. The site is located within the E1 Local Centre Zone and the primary Princes Highway frontage is to a classified road, see Figure 8 for the land zoning map. The site is located within the Rockdale Town Centre and the surrounding area generally contains shop top housing, commercial premises, public transport nodes, and community facilities.

The adjoining development to the north at 463 Princes Highway contains a single storey commercial premises. To the rear of the site to the west is a commuter car park privately owned by Sydney Trains, and Rockdale Train Station. The site is approximately 150m from Rockdale Train Station and the bus stop services on Geeves Avenue.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for demolition of existing structures and construction of a twelve-storey shop top housing development consisting of two commercial tenancies at ground floor level with residential co-living above, basement car parking and landscaping.

This proposal will involve the following:

- Demolition of all structures across the site, including awnings over public domain.
- Retention and protection of existing street trees to Princes Highway.

- Construction of a twelve (12) storey shop top housing development comprising of the following:
 - Basement Level: Vehicular access from Geeves Lane, thirteen (13) car spaces including 2 accessible spaces, 2 car share spaces, and 1 car wash bay, 65 bicycle spaces, 6 motorcycle spaces, two lifts, vehicle waiting bay, turning bay, and two plant rooms.
 - Ground Level: Ramp access to basement level from Geeves Lane, loading dock for MRV vehicles, electrical substation, residential foyer, waste and recycling room, 8 bicycle spaces, lifts, and two commercial tenancies (375m²).
 - Level 1: Internal stairs and lift access, sixteen (16) units of which 13 are doubles, 1 single and 2 accessible rooms; 94.5m² of indoor communal area and 83.4m² of outdoor communal area, building services and waste collection points.
 - Level 2: Internal stairs and lift access, sixteen (16) units of which 13 are doubles, 1 single and 2 accessible rooms; 117.5m² of outdoor communal area, elevated passageway, building services and waste collection points.
 - Level 3: Internal stairs and lift access, fourteen (14) units of which 10 are doubles and 4 single rooms which includes a Managers Room; building services and waste collection points.
 - Level 4: Internal stairs and lift access, fourteen (14) units of which 10 are doubles, 3 single and 1 accessible rooms; 42m² of indoor communal area, building services and waste collection points.
 - Level 5: Internal stairs and lift access, fifteen (15) units of which 10 are doubles 3 single and 2 accessible rooms; building services and waste collection points.
 - Level 6: Internal stairs and lift access, fourteen (14) units of which 10 are doubles and 4 single rooms; building services and waste collection points.
 - Level 7 - 11: Internal stairs and lift access, fourteen (14) units of which 7 are doubles and 7 single rooms; building services and waste collection points.
 - Roof: Solar panels and lift overrun.
- Landscaping and tree planting within the public domain, and to communal area on Level 1, and balcony areas of Levels 3 and 6.

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	927.3m ²
GFA <i>No FSR control applies</i>	5,451.8m ² , equivalent to FSR 5.88:1 (commercial GFA = 374.8m ²)
Max Height <i>Permitted max. height 34m</i>	RL 55.08m AHD, equivalent to 39.9m
Clause 4.6 Requests	Yes – vary s4.3 Building Height. Variation of 5.9m, equivalent to 17.3%.
Unit breakdown	157 Co-Living Units <ul style="list-style-type: none"> • 106 Double Units • 51 Single Units 2 Commercial Units
Car Parking spaces	Total thirteen (13) car spaces including:

<p>SEPP (Housing) – residential component: $0.2 \text{ spaces per unit} = 28 \text{ spaces}$</p> <p>BDCP – commercial component: $1 \text{ space} / 40\text{m}^2 = 8 \text{ spaces}$</p> <p>Total required = 36 spaces</p>	<ul style="list-style-type: none"> • 1x dedicated commercial space • 2x accessible spaces, 2x car share spaces, and 1x car wash bay. • 73 bicycle spaces, 6 motorcycle spaces
<p>Setbacks Assessed under 2F and 3F of the ADG Up to 4 storeys: 6m 5-8 storeys: 9m 9 storeys and above: 12m</p>	<ul style="list-style-type: none"> • Up to 4 storeys: Proposed 3.224m – 9.95m. Complies. • 5-8 storeys: Proposed 3.224m – 9.95m. Three (3) units don't comply across these levels. • 9 storeys and above: Proposed 3.224m – 9.95m. Six (6) units don't comply across these levels.

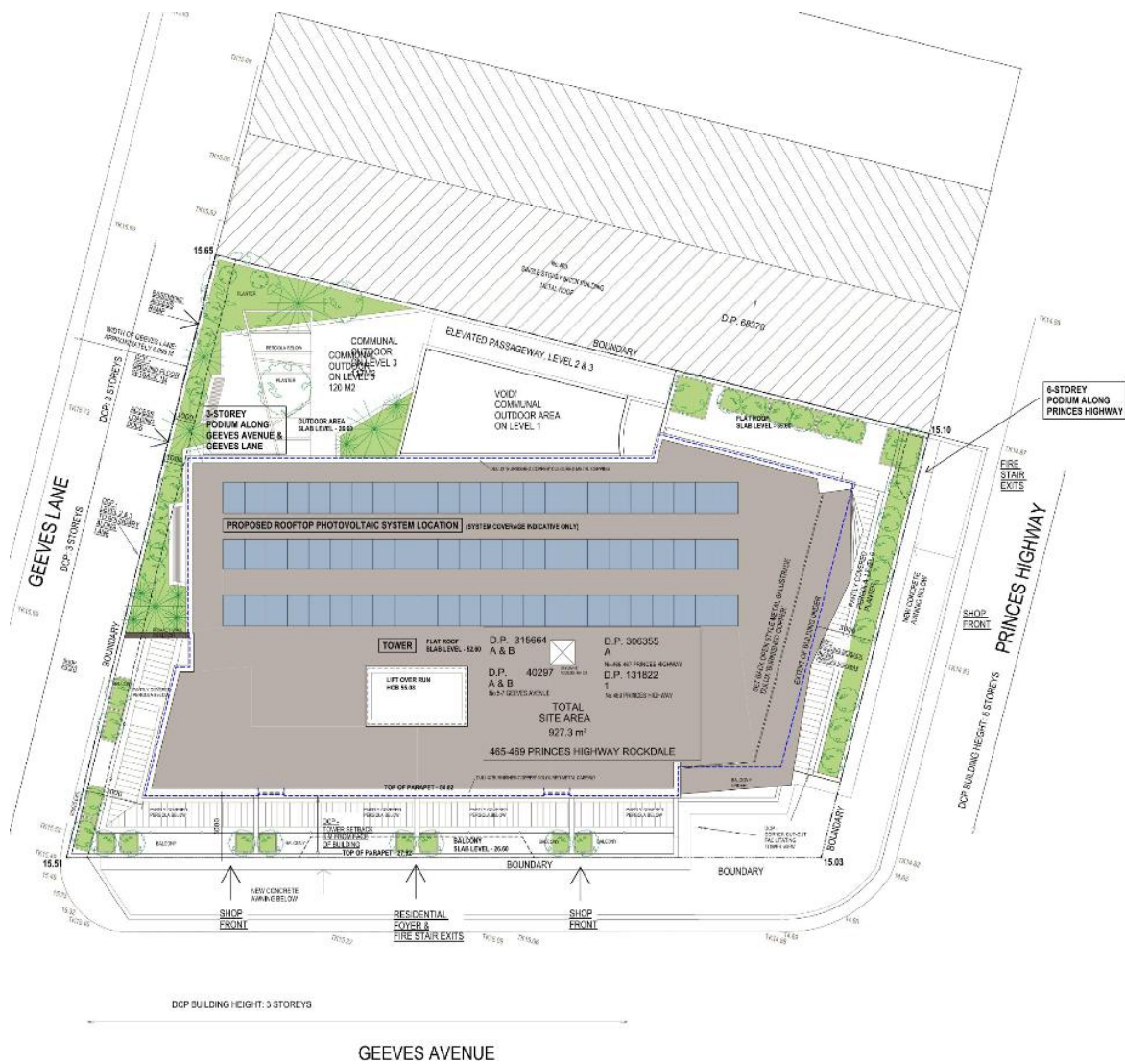


Figure 5: Proposed Site Plan.



Figure 6: Eastern Elevation Plan to Princes Highway (left) and Western Elevation Plan to Geeves Lane (right).



Figure 7: Northern Elevation Plan to 463 Princes Highway (left) and Southern Elevation Plan to Geeves Avenue (right).

2.2 Background

The development application was lodged on **18 October 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
18 October 2024	The Development Application (DA-2024/286) was lodged with Council.
24 October 2024	DA referred to external agencies.
25 October 2024	Council contacted applicant and raised issue of site access.
31 October 2024	Exhibition of the application on public notification from 31 October to 2 December 2024. One (1) submission received.
13 November 2024	Water NSW issued RFI directly to applicant.
19 November 2024	Sydney Trains issued RFI directly to applicant.
20 November 2024	Council contacted applicant regarding issue of Site Access (2 nd time).
5 December 2024	Design Review Panel meeting.
6 December 2024	Water NSW issued Letter of Intention to Refuse GTA following no response to RFI.
8 January 2025	Council contacted applicant requesting update on issue of Site Access (3 rd time).
9 January 2025	Sydney Airport issued RFI.
28 January 2025	Applicant submission of legal advice prepared by Mills Oakley in response to site access issue.
30 January 2025	Briefing Meeting with SECPP.
7 February 2025	Water NSW issued Letter of Intention to Refuse following no response to RFI.
11 March 2025	LEC appeal filed.
4 April 2025	2 nd Briefing Meeting with SECPP.

17 April 2025	Additional information request issued to applicant on NSW Planning Portal.
1 May 2025	Requested information due. No further information or correspondence received.
8 July 2025	Determination meeting with SECPP.

2.3 Site History

The subject site has historically been used for commercial purposes.

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 the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report), Integrated Development (s4.46).

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *Water Management Act 2000 s90(2)*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Bayside Local Environmental Plan 2021*
- *Bayside Development Control plan 2022.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
Water Management Act 2000	s90(2) Water management work approvals	No
State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 2: Standards for residential development – BASIX Chapter 3: Standards for non-residential development	No
State Environmental Planning Policy (Housing) 2021	Chapter 3: Diverse Housing Part 3 - Co-living housing	No
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6.	Yes
SEPP (Resilience & Hazards) 2021	Chapter 4: Remediation of Land Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	No
State Environmental Planning Policy	Chapter 2: Infrastructure	No

(Transport and Infrastructure) 2021	<ul style="list-style-type: none"> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission. • Section 2.119(2) Development with frontage to classified road • Section 2.120 - Impact of road noise or vibration on non-road development • Section 2.99 - Excavation in, above, below or adjacent to rail corridors 	
Bayside LEP 2021	<ul style="list-style-type: none"> • Clause 1.2 – Aims of Plan • Clause 1.4 - Definitions • Zoning – E1 Local Centre • Clause 2.7 – Demolition requires development consent • Clause 4.3 – Height of Buildings • Clause 4.6 – Exceptions to development standards • Clause 5.10 – Heritage conservation • Clause 6.1 – Acid Sulfate Soils • Clause 6.2 – Earthworks • Clause 6.3 - Stormwater • Clause 6.7 – Airspace Operations • Clause 6.8 – Development Areas subject to Aircraft Noise • Clause 6.10 – Design Excellence • Clause 6.11 – Essential services 	No
Bayside DCP 2022	<ul style="list-style-type: none"> • Part 3.1 – Site Analysis and Locality • Part 3.2 – Design Excellence • Part 3.3 – Energy and Environmental Sustainability • Part 3.4 - Heritage • Part 3.5 – Transport, Parking and Access • Part 3.6 – Social Amenity, Accessibility and Adaptable Design • Part 3.7 Landscaping, Private Open Space and Biodiversity • Part 3.8 – Tree Preservation and Vegetation Management • Part 3.9 – Stormwater Management and Water Sensitive Urban Design • Part 3.11 - Contamination • Part 3.12 – Waste Minimisation and Site Facilities 	No

	<ul style="list-style-type: none"> • Part 3.13 – Development in areas subject to aircraft noise and affected by Sydney Airport’s prescribed airspace • Part 3.14 – Noise, Wind, Vibration and Air Quality • Part 5.2.7 – Boarding houses and co-living • Part 7.2 – Rockdale Town Centre • Part 9.1 – Dictionary • Part 9.2 – Notification Procedures 	
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Water Management Act 2000 - s90(2) Water management work approvals

The development application has been lodged as Integrated Development, as an approval under the *Water Management Act 2000* is required under s90(2), specifically as the development requires water supply works approval as the development involves temporary construction dewatering activity.

The proposal involves excavation for one basement car parking level approximately 6m below natural ground level. Testing on site has been undertaken and the geotechnical report prepared by Morrow Geotechnics Pty Ltd dated 23 September 2024 indicates that groundwater was encountered at a depth between 1.19m – 2.82m below natural ground level. Accordingly, relevant approvals are required to be obtained from WaterNSW.

WaterNSW requested additional information from the applicant on 13 November 2024. As no information was submitted, a Letter of Intention to Refuse GTA’s was issued on 6 December 2024. On 8 January 2025 the applicant provided a response, however this was deemed insufficient and further information requested on 7 February 2025. On 16 May 2025 WaterNSW formally refused to issue GTA’s for the proposal.

Having regard to the above, the applicant has provided insufficient information for assessment and has not obtained the relevant approval required to satisfy the provisions of the Water Management Act.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 – Standards for non-residential development

Chapter 3 of the SEPP (Sustainable Buildings) 2022 outlines standard for non-residential development that involves:

- (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or*
- (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.*

This section applies as the cost of works for the proposal is stated to be \$30,333,381.00 (excluding GST) or \$33,366,719.00 (including GST).

Additional information was requested to satisfy the above. No further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

State Environmental Planning Policy (Housing) 2021

Chapter 3 Diverse housing

Chapter 3 Part 3 Division 3 of the Housing SEPP identifies specific development standards that apply to Co-living. The relevant controls are assessed against the development as demonstrated below in **Table 4** and considered in more detail below.

Section	Requirement	Proposal	Compliance
67 - Co-living housing may be carried out on certain land with consent	Permitted on land in a zone which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument	Since 'Shop to Housing' is permitted in the E1 Local Centre Zone under BLEP 2021, co-living housing is also permitted by virtue of the SEPP.	Yes
68 - Non-Discretionary Development Standards	(2)(a) FSR – maximum permissible + 10% if the additional GFA is used only for co living.	No FSR controls applies to the site. Applicant calculations indicate 5,451.8m ² , equivalent to FSR 5.88:1 (commercial GFA equivalent 374.8m ²)	N/A No FSR control applies to the site
	<u>(2)(c) Where more than 6 private rooms provided</u> (i) Min. 30sq/m Communal living area with min dimensions 3m, <u>plus</u> (ii) 2sq/m for each private room in excess of 6 private rooms.	Proposal requires 332m ² . Total area of indoor and outdoor communal areas based on applicant calculations 338m ² .	Yes
	<u>(2)(d) Communal Open Space</u> (i) Min 20% (185.5m ²) site area + 3m min dimensions	The development is required to provide 185.5m ² , accounting for 20% of site area. Proposal provides 83.4m ² within the only outdoor communal space at Level 1 and is therefore deficient by 102.1m ² .	No
	<u>(2)(e) Car Parking</u> (i) 0.2 space per private room 0.2 X 157 (32)	Based on applicable reduced rates, a min of 28 car parking spaces is required on-site for the co-living component of the proposal. There are 11 spaces proposed resulting in a deficiency of 17 spaces. The application is not accompanied with a Clause 4.6 variation to the Non-Discretionary Development Standards and therefore cannot be supported.	No Refer to Note No. 1 for further discussion.

69 - Standards for co-living housing	(1) (a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m ² and not less than— (i) for a private room intended to be used by a single occupant—12m ² , or (ii) otherwise—16m ² ,	There are a total 157 Co-Living Units, broken down as 106 Double Units and 51 Single Units. All unit sizes meet the GFA criteria.	Yes
	(1)(b) Minimum Lot Size the minimum lot size for the co-living housing is not less than (ii) for development on other land—800m ² , and	Consolidated lots have total site area 927.3m ² .	Yes
	(1)(d) - Workspace for manager in communal living area or separate space	There is a dedicated Managers Room (double unit) on Level 3 indicated, however no area within the unit or any communal areas identified as “dedicated workspace”.	No
	1)(e) – No part of the ground floor that fronts a street will be used for residential purposes unless permitted by another EPI	The ground floor does not contain any residential aspect.	Yes
	(1)(f) - Adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant,	Independent and communal facilities proposed. Each unit contain their own bathroom and kitchen spaces. The proposal has also accommodated a communal kitchenette.	Yes
	(1)(g) - each private room will be used by no more than 2 occupants	The maximum room size is for a double. There is reference in the Plan of Management to registration details for lodgers.	Yes
	(1) (h) - co-living housing will include “adequate” bicycle and motorcycle parking spaces	There are 73 bicycle spaces and 6 motorcycle spaces proposed	Yes
	(2)(b) if the co-living housing has at least 3 storeys the building will comply with the minimum building separation distances specified in the Apartment Design Guide	<ul style="list-style-type: none"> Minimum 6m required for up to 4 storeys. Proposed 3.224m – 9.95m. Minimum 9m required for 5-8 storeys. Proposed 3.224m – 9.95m. Three (3) units don't comply across these levels. 	No Refer to Note No.2 for further discussion

	<table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<ul style="list-style-type: none">Minimum 12m required for 9 storeys and above. Proposed 3.224m – 9.95m. Six (6) units don't comply across these levels.	
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													
	(2)(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area,	There is insufficient information to determine compliance with solar access.	No												
	(f) the design of the building will be compatible with; (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition, the desired future character of the precinct.	The proposed development has not demonstrated that the amalgamation pattern and site consolidation is suitable, or in line with the future desired character of the town centre.	No												
70 – No Subdivision	Subdivision not permitted.	Subdivision not proposed	Yes												

Note 1 – Car Parking

State Environmental Planning Policy (Housing) 2021, Part 3 – Co-Living, provision (2)(e) requires a car parking rate of 0.2 parking spaces for each private room within a Co Living development, on land within an ‘*accessible area*’. The site is located within 800m walking distance of a public entrance to Rockdale railway station and is thus located within an ‘*accessible area*’.

The requirements of Part 3.5.3 On-site Car Parking Rates of BDCP 2022 stipulate that Council may reduce car parking provisions in certain circumstances and permit car share schemes. Part 3.5.9 New and Emerging Transport and Parking Facilities, Control 4 of BDCP 2022 states that ‘Council may also consider a car share space in lieu of some resident parking (to replace up to 5 car parking spaces) supported by a traffic and parking study. This parking offset can be used once only.’ The reduction results in a requirement for 27 car parking spaces plus one (1) car share space for a total of 28 spaces for the co-living element.

The proposal seeks to provide a total of 11 spaces (including the two car share spaces and the car wash bay) in lieu of the 28 required. This indicates a deficiency of 17 on site car spaces for the co living element of the development, resulting in adverse on-street parking impacts to the locality.

Based on the above, and noting that the car parking rates of State Environmental Planning Policy (Housing) 2021, Part 3 – Co-Living, Section 68(2)(e) are a non-discretionary development standard, a Clause 4.6 – Exception to Development Standards is required to be submitted for assessment given the deficiency of car parking proposed within the development and provisions of 4.15(3)(b) of Environmental Planning and Assessment Act 1979 No 203. Nil 4.6 with respect of car parking has been submitted by the applicant. Therefore, the proposed variation cannot be supported.

Note 2 - Building Separation

Having regard to the minimum building separation requirements outlined in this section, there are nine (9) units which do not comply with the separation requirements. The lack of separation provided for rooms and balconies on level 3-11 to the northern boundary would impose additional separation setback requirements on adjacent lots to satisfy the ADG. Further, the lack of compliant setbacks from the northern boundary with the adjoining site will create potential privacy issues when this site develops. The proposal does not comply with Clause 69 (2) b) of SEPP (Housing) as it does not provide 50% of the required separation distances from levels 3 and above to portions of the building.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development that has an estimated development cost of more than \$30 million. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider 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. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The application was reviewed by Council's Environmental Scientist who provided the following assessment:

"The SEE was prepared by Planning Ingenuity for the site. In relation to contamination, the SEE states that the site is not contaminated and has been used historically for commercial purposes.

It is unclear the basis in which this statement was made, as no contamination reports have been provided for the site. Given the extended commercial history of the site and the construction of residential premises including the excavation of one level of basement carparking, a Preliminary Site Investigation and Detailed Site Investigation must be completed as per the requirements in the State Environmental Planning Policy (Resilience and Hazards), 2021. The Geotech report shows uncontrolled fill up to 2.8m thick with anthropogenic inclusions."

Additional information was requested to satisfy the above. No further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

The relevant subsections below apply to the subject proposal:

- **Section 2.48(2) - (Determination of development applications—other development) – electricity transmission.**

The application was referred to Ausgrid for review in accordance with the above. Ausgrid provided a response on 13 November 2024 in support of the proposal, subject to conditions.

- **Section 2.119(2) - Development with frontage to classified road**

The application was referred to Transport for New South Wales (TfNSW) for concurrence in accordance with the above as the proposal has frontage to Princes Highway. TfNSW provided their concurrence on 8 November 2024 in support of the proposal, subject to conditions.

- **Section 2.120 - Impact of road noise or vibration on non-road development**

This section is relevant to the proposal as the proposal involves residential accommodation on a road corridor with an annual average daily traffic volume of more than 20,000 vehicles. The application is accompanied by an Acoustic Report prepared by West and Associates Pty Ltd dated 9 August 2024. The report concludes that the provisions of this section can be satisfied subject to recommended construction methodology and criteria.

- **Section 2.99 - Excavation in, above, below or adjacent to rail corridors**

The application was referred to Sydney Trains as the proposal involves excavation within 25m of a rail corridor (Rockdale railway station and line). Sydney Trains requested additional information in a referral received on 19 November 2024.

Additionally, Sydney Trains have indicated that their records show that Geeves Avenue adjoining the subject site is owned by Transport Asset Holding Entity (TAHE). The Proposed Development relies on access from Geeves Avenue and includes works along the pedestrian walkway within TAHE land without having obtained the relevant owner's consent.

No further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

Bayside Local Environmental Plan 2021

Zoning and Permissibility (Part 2)

The site is located within the E1 Local Centre Zone pursuant to Clause 2.2 of the LEP. According to the definitions in Clause 4 (contained in the Dictionary), the proposal is defined as commercial development and co-living development. The proposed mixed use development is a permissible use with consent pursuant SEPP (Housing) 2021.

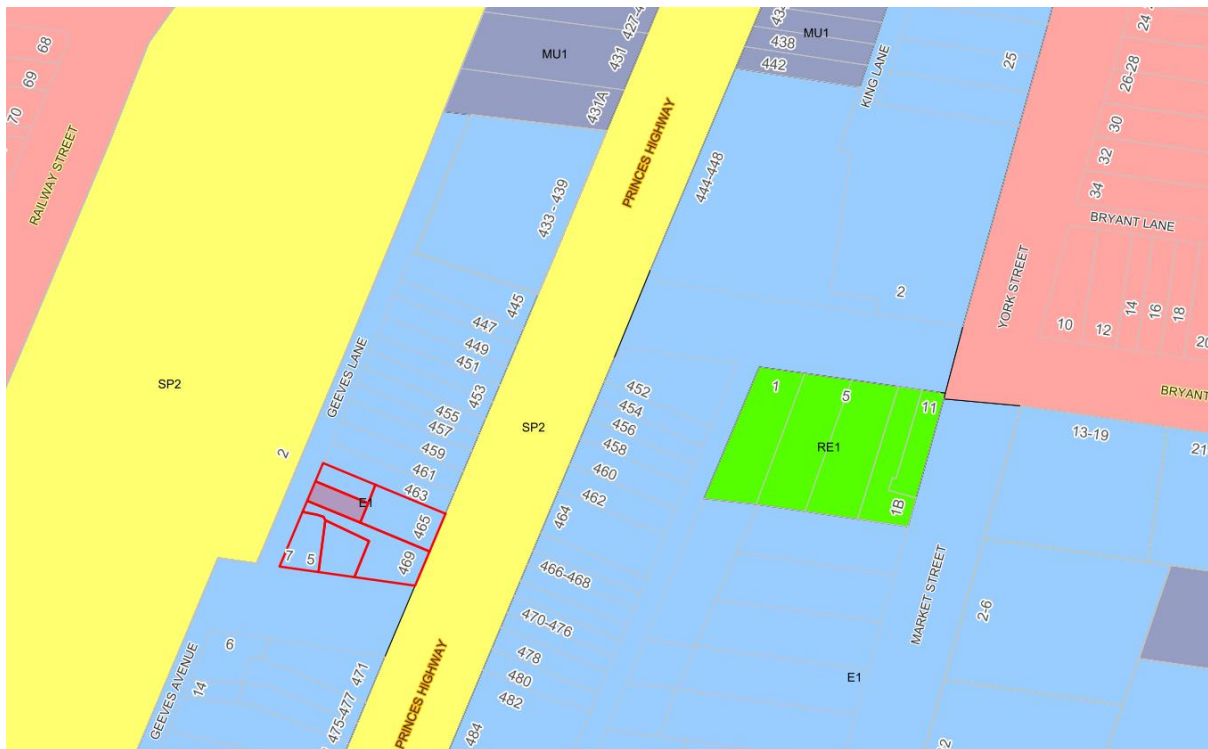


Figure 8: Zoning Map showing the subject site highlighted red within the E1 Local Centre Zone

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure development within the zone does not detract from the economic viability of commercial centres.
- To ensure the scale of development is compatible with the existing streetscape and does not adversely impact on residential amenity.
- To ensure built form and land uses are commensurate with the level of accessibility, to and from the centre, by public transport, walking and cycling.
- To create lively town centres with pedestrian focused public domain activated by adjacent building uses and landscape elements.
- To accommodate population growth in the Rockdale town centre through high density residential uses that complement retail, commercial and cultural premises in the town centre.

The proposal is not generally consistent with these zone objectives, particularly the third and sixth objectives. The proposed development adversely impacts onto the character and amenity of the area and is inconsistent with the desired future character of the area. The scale of development is incompatible with the existing streetscape.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

The proposal does not comply with the Building Height development standard in Part 4 of the LEP and accordingly, a Clause 4.6 request has been provided with the application for the exceedance to the maximum building height.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	34m	39.9m	No
Variation Request (CI 4.6)	cl4.6 submitted to vary Building Height	Variation of 5.9m (17.3%)	No
Heritage (CI 5.10)	Located within the vicinity of Heritage Item I357 - Rockdale Railway Station and Yard Group	Sympathetic to heritage item	Yes
Earthworks (CI 6.2)	Excavation to 6m to accommodate basement level	Geotech Repot indicates groundwater will be intercepted	No
Stormwater Management (CI 6.3)	WSUD principles and site-specific stormwater management	Does not comply with site specific requirements	No
Airspace operations (CI 6.7)	<ul style="list-style-type: none"> 15.24m building height OLS – 51m to AHD 	39.9m (RL 55.08m AHD). Approval from Sydney Airport not obtained.	No
Development Areas subject to Aircraft Noise (CI 6.8)	ANEF 20-25	Aircraft noise assessment not submitted	No
Design excellence (cl 6.10)	Subject to Design Review Panel	Design excellence not achieved.	No
Essential Services (CI 6.11)	Essential services to be available on site	Services remain available.	Yes

The proposal is considered to be generally inconsistent with the LEP.

4.3 - Height of Buildings

A maximum height standard of 34 metres applies to the subject site.

The proposal does not comply with this requirement as the maximum building height proposed is 39.9m (RL55.08m AHD). This results in a variation of 5.9m (17.3%). Accordingly, the proposal was accompanied with a variation request as discussed under cl4.6.

4.6 - Exceptions to Development Standards

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

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

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

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant is seeking to vary the s4.3 Height of Buildings development standard by a maximum of 5.9m which equates to a 17.3% variation. A Section 4.6 variation to justify the non-compliance has been prepared by Planning Ingenuity dated 27 September 2024. The Clause 4.6 variation includes figures which demonstrate the degree of non-compliance which are provided below.

The applicants' Clause 4.6 variation argues that there are sufficient environmental planning grounds to support the non-compliant Building Height. The variation is templated to address at least one of the five tests including whether the variation is unreasonable or unnecessary and provides environmental planning grounds to argue their case. The applicant has chosen the first method test for their assessment. These components are summarised below with Councils response provided:

Section 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Officer Comment:

The applicant utilises the first Wehbe method to address the variation to the development standard and outlines how the development satisfies the provisions of cl4.3 Height of Buildings of the BLEP 2021.

The maximum variation sought to the building is 5.9m, equivalent to 17.3%. The applicant argues that the emerging character of the town centre is evolving to a higher density of development akin to the proposal. There is reference to additional height bonuses that could be available under separate SEPP provisions should the proposal include affordable housing to argue the potential contextual building height and massing. Council does not agree that this is relevant given the proposal does not include any affordable housing components, therefore the bonus height is not applicable. The proposed breach to the building height is attributed to the twelfth storey and partially through the eleventh storey as depicted on Figure 9. The density of development in the surrounding site context is not compatible with that proposed.

The applicant argues the proposal benefits from the corner location of the site and strategic building massing and design as to not disrupt views or have adverse impacts by way of privacy or solar access. Council does not agree that the built form and massing of the proposal is compliant or suitable for the site with regards to applicable provisions of Part 7.2 of the BDCP or cl 6.10 of the BLEP as discussed further within the relevant sections of this report.

The appropriateness of the built form and land use intensity is not sufficiently justified. Council does not agree that the proposal is compatible with surrounding development and in line with the desired future character of the area.

MASSING DIAGRAMS

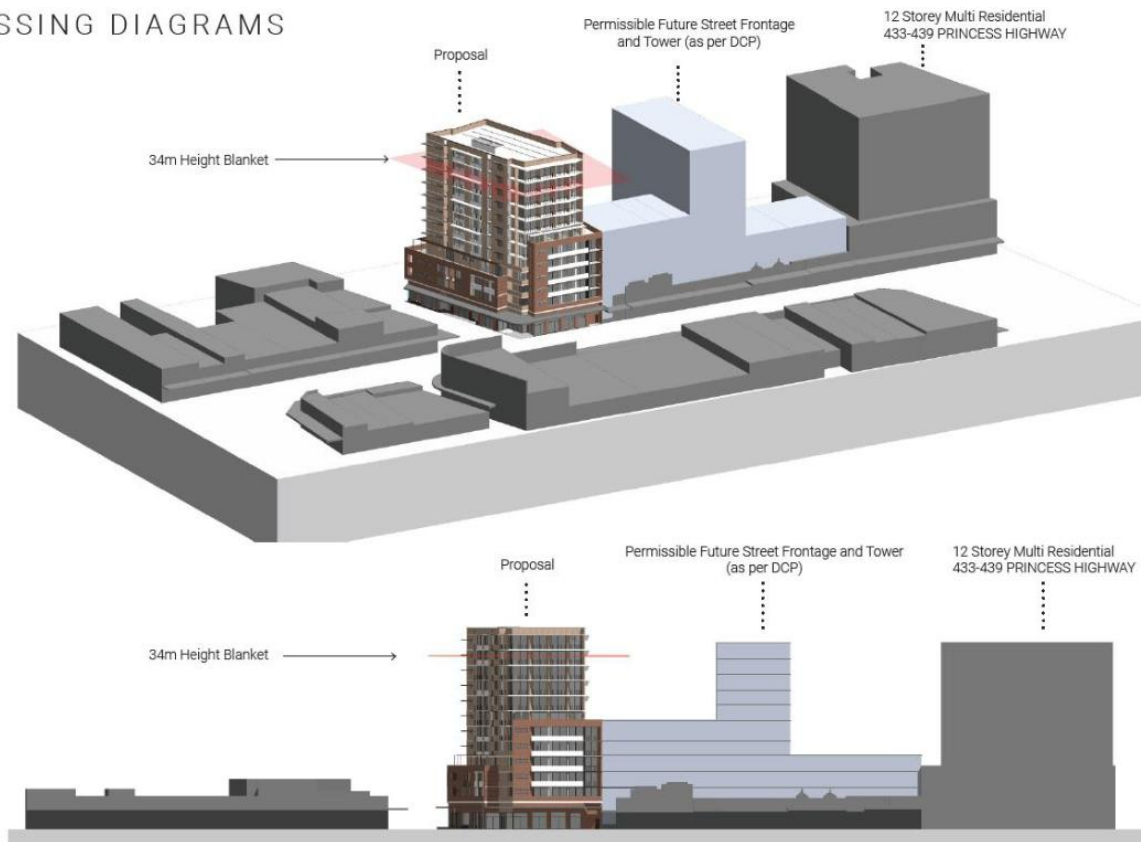


Figure 9: Excerpt from applicants' cl4.6 variation request depicting the portion of the building exceeding the building height limit and surrounding buildings

Section 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?

Officer Comment:

The scale of the built form is not consistent with development in the surrounding area. The applicant argues the good design of the proposed building and the lack of impacts onto the built environment within its site context. Reference is made to a nearby site to the north which relied upon a building height variation (433-439 Princes Highway). Notably, this development was approved with a maximum variation of 2.95m equivalent to 8.7%. Based on the merits of this application this was supported, largely due to the demonstrable public benefit through the dedication of laneway. Council does not agree that the subject proposal is comparable to this development on its merits or as a basis for sufficient environmental planning grounds. Further, the subject proposal includes a more significant departure from the development standard.

Council does not agree that the potential for future development to breach the development standard is *generally* indicative of the desired future character. The assumption being that future development would be reliant on any bonus height provisions and would seek approval for such development typology. The subject application does not even seek these provisions, and any future separate application require assessment on its own merits.

The applicants claim that the overall proposal complies with the objectives and controls set out within the site-specific controls under Part 7.2 Rockdale Town Centre are disputed, as discussed further in the relevant section of this report. Reference to the provision of affordable accommodation is not justified given the proposal does not seek approval for affordable housing.

Having regard to the above, there are sufficient environmental planning grounds to justify contravening the development standard.

Given the above, Council the consent authority is not satisfied that the provisions have been achieved and that the clause 4.6 is unsatisfactory, therefore the variation is not supported.

5.10 – Heritage Conservation

The subject site is located within the vicinity of Heritage Item I357 - Rockdale Railway Station and Yard Group listed in schedule 5 of Bayside Local Environmental Plan 2021 and is also listed on the NSW State Heritage Register as “Rockdale Railway Station Group” (#01238).

The application was accordingly referred to Council’s Heritage Officer for review, who provided the following comments:

“Statement of Significance

A Victorian style structure representative of the construction of the Illawarra railway and contributing to the historic qualities of the Rockdale town centre. Rockdale Station is an excellent example of a suburban second-class station building with a rare surviving goods shed in the suburban area. It forms one of a small group of buildings on the Illawarra line that dates from the opening of the line and is an important part of the historical development of that line. The overhead booking office dates from 1922 as the use of these structures enabled railway staff to handle all passenger ticket and other needs centrally. No 1 terminal platform (now out of use) was an unusual and rare occurrence of this construction at a time when stations as far as Rockdale generated significant passenger traffic and warranted extra trains to this point only. It is similar to that at Chatswood and was also used as a parcel’s platform.

Assessment

The subject site is separated from Rockdale Station by Geeves Lane. The existing structures on the subject site have no association with the adjacent heritage item (Rockdale Station) and has no heritage significance. The proposed development also does not obstruct any existing public domain views to the heritage item, and has no adverse impact on its heritage significance.”

Having regard to the above, the proposal is considered acceptable in terms of heritage impacts. The recommendation from Council’s Heritage Planner is in support of the application.

6.2 – Earthworks

The proposal involves excavation for one basement car parking level approximately 6m below natural ground level. Testing on site has been undertaken and the geotechnical report prepared by Morrow Geotechnics Pty Ltd dated 23 September 2024 indicates that groundwater was encountered at a depth between 1.19m – 2.82m below natural ground level.

As the basement will intercept the groundwater table it will need to be provided as a fully tanked structure. Additionally, relevant approvals and licensing are required to be obtained from WaterNSW.

WaterNSW requested additional information from the applicant on 13 November 2024. As no information was submitted, a Letter of Intention to Refuse GTA’s was issued on 6 December 2024. On 8 January 2025 the applicant provided a response, however this was deemed insufficient and further information requested on 7 February 2025. On 16 May 2025 WaterNSW formally refused to issue GTA’s for the proposal.

There is insufficient information to determine whether excavation works will have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Accordingly, the provisions of this section have not been satisfied.

6.3 – Stormwater and WSUD

The Development Application provides insufficient information about stormwater management. In the absence of satisfactory information addressing stormwater management the proposed development cannot be approved having regard to cl 6.3 of the BLEP.

Additional information was requested by Council with regards to stormwater management, in addition to the information previously requested by WaterNSW with regards to basement tanking. No further information was received.

As there is insufficient information to satisfy the provisions of this section, the proposal is not supported.

6.7 – Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51m AHD. The building height is at 39.9m (RL 55.08m to AHD) and therefore will penetrate the OLS by 4.08m. Therefore, the application sought approval under the Airports (Protection of Airspace) Regulations 1996, for the intrusion of the proposed development into the airspace, which under the regulations, is prescribed airspace for Sydney Airport ('SACL').

In this regard, the development application was referred to SACL for their review. Additional information was requested on 9 January 2025 to satisfy the provisions of this section. No further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 20 – 25 ANEF Contour, thus subject to adverse aircraft noise. Given the aforementioned, appropriate noise attenuation measures are required for the proposed development as it is a sensitive use development type. The application is accompanied by an Acoustic Report prepared by West and Associates Pty Ltd dated 9 August 2024.

However, the Acoustic Report does not detail an assessment of aircraft noise impacts. Having regards to this, there is insufficient information to satisfy the provisions of this section, and the proposal cannot be supported.

6.10 – Design excellence

The site is identified on the Design Excellence Map as being subject to the provisions of this section, which includes *s(3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*

The application was subject to a Design Review Panel meeting on 5 December 2024. The panel determined that significant amendments were required, and the proposal did not achieve design excellence under s 6.10 of the BLEP. The findings of the design review panel are required to be taken into account by the consent authority (cl 6.10(5) of the BLEP). See Design Review Panel Meeting Minutes dated 5 December 2024 attached.

Having regard to this, there is insufficient information to satisfy the provisions of this section, and the proposal cannot be supported.

6.11 – Essential Services

Services are generally available on site to facilitate to the proposed development, as proposed to be modified. Appropriate conditions have been recommended requiring approval or consultation with relevant utility providers with regard to any specific requirements for the provision of services on the site.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft environmental planning instruments of direct relevance to the proposal.

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

The application is subject to the Bayside Development Control Plan 2022 ("the DCP"). This is the comprehensive DCP relevant to the proposal. The DCP was adopted by the elected Council on 22 March 2022 and came into effect on 10 April 2023 and supports the provisions of the LEP.

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
3.1 – Site Analysis and Locality	Yes	Yes
3.2 – Design Excellence	No	No - see discussion
3.3 – Energy and Environmental Sustainability	No	No - see discussion
3.4 - Heritage	Yes	Yes – see discussion
3.5 – Transport, Parking and Access	No	No - see discussion
3.6 – Social Amenity, Accessibility and Adaptable Design	Yes	Yes – see discussion
3.7 – Landscaping, Private Open Space and Biodiversity	No	No - see discussion
3.8 – Tree Preservation and Vegetation Management	No	No - see discussion
3.9 – Stormwater Management and Water Sensitive Urban Design	No	No - see discussion
3.11 – Contamination	No	No - see discussion
3.12 – Waste Minimisation and Site Facilities	Yes	Yes - see discussion
3.13 – Development in areas subject to aircraft noise and affected by Sydney Airport's prescribed airspace	No	No - see discussion
3.14 – Noise, Wind, Vibration and Air Quality	Yes	Yes - see discussion
5.2.7 – Boarding houses and co-living	No	No - see discussion
Part 7.2 – Rockdale Town Centre	No	No - see discussion
Part 9.1 – Dictionary	Yes	Yes
Part 9.2 – Notification Procedures	Yes	Yes

The following sections elaborate on key matters from the above table. Part 7 is dealt with first, as the DCP states: “provisions in the chapter [7] prevail over any similar provisions in other sections of the DCP”.

Part 7 – Rockdale

This section of the DCP provides controls and guidelines for 17 areas within the Local Government Area. Not all areas are included. The areas chosen are either unique or have been subject to detailed master planning controls, with more specific controls to guide development. As stated, the provisions of this Section prevail over other sections of the DCP, including where there is any inconsistency.

The site is located within the Rockdale Town Centre. The site has three frontages, the primary to Princes Highway, the secondary to Geeves Avenue and the tertiary to Geeves Lane. Within the Rockdale Town Centre, the subject site is located within the special character area identified as the Princes Highway Core as discussed under Part 7.2.6.2.

Part 7.2.1 of BDCP contains the following relevant objectives relating to amenity:

“This DCP works in conjunction with the Bayside LEP Height of Buildings Map and the Design Excellence clause to establish building heights and further building envelope controls within the Rockdale Town Centre. The requirements of this DCP must be considered for any development within the Application area to achieve Design Excellence.”

Having regard to the above, the proposal is not compliant with the building height and does not demonstrate design excellence and is therefore not generally consistent with the Rockdale Town Centre objectives.

Part 7.2.5.1 depicts the desired future amalgamation patterns to achieve development consistent with other sections of the BDCP and to facilitate appropriate dwelling yields, generation of employment, and a built form that will provide a positive contribution to the spatial definition of the street. This ensures appropriate amenity is maintained for residents and future occupants.

The proposal does not provide sufficient information to support a varied amalgamation pattern which gives rise to a number of issues with amenity and building separation due to the reduced site area relative to the DCP envelope. Massing diagrams indicate future proposal opportunities to neighbouring sites in favour of their own proposal. These representations are not necessarily accurate as the indicated building envelope is indicative only and is linked to the intended amalgamation site extent.

The proposal does not sufficiently demonstrate that negotiations were undertaken with neighbouring owners to seek amalgamation and enable coordinated redevelopment. The proposal argues that future redevelopment to the north can still be obtained, however places the burden of compliance with regards to building separation to future development.

Part 7.2.5.2 of the BDCP identifies a street wall height of 3 storeys to Geeves Lane and Geeves Avenue, and 6 Storeys to Princes Highway, with an overall envisaged building height of 10 - 11 storeys. The proposal assumes a street wall building only for the adjacent northern lots, relying on those lots to provide the separation to any future tower not provided by the DA. There is no information to substantiate this view, and it is anticipated that a tower could be sought on adjacent lots.

The building height envisaged for the site at 10-11 storeys is likely capable of achieving compliance with the cl4.3 Height of Buildings development standard, whereby the proposal results in non-compliance with both the BLEP and Part 7.2.5.2 of the BDCP.

The application does not adequately respond to CI 7.2.6.2 Princes Highway Core Precinct Quality Built Form Control 1. As development is to be generally of a podium-tower nature towards the centre of the blocks but is to expose a *'strong continuous landmark – quality tower façade at key corners and highly visible locations'*. The design and form of the tower to Princes Highway does not sufficiently express the tower form on this frontage.

The proposal generally departs from the objectives and controls applicable under the Rockdale Town Centre, and particularly the special character area of Princes Highway Core. Insufficient information is provided to support the above and therefore the proposal is not supported.

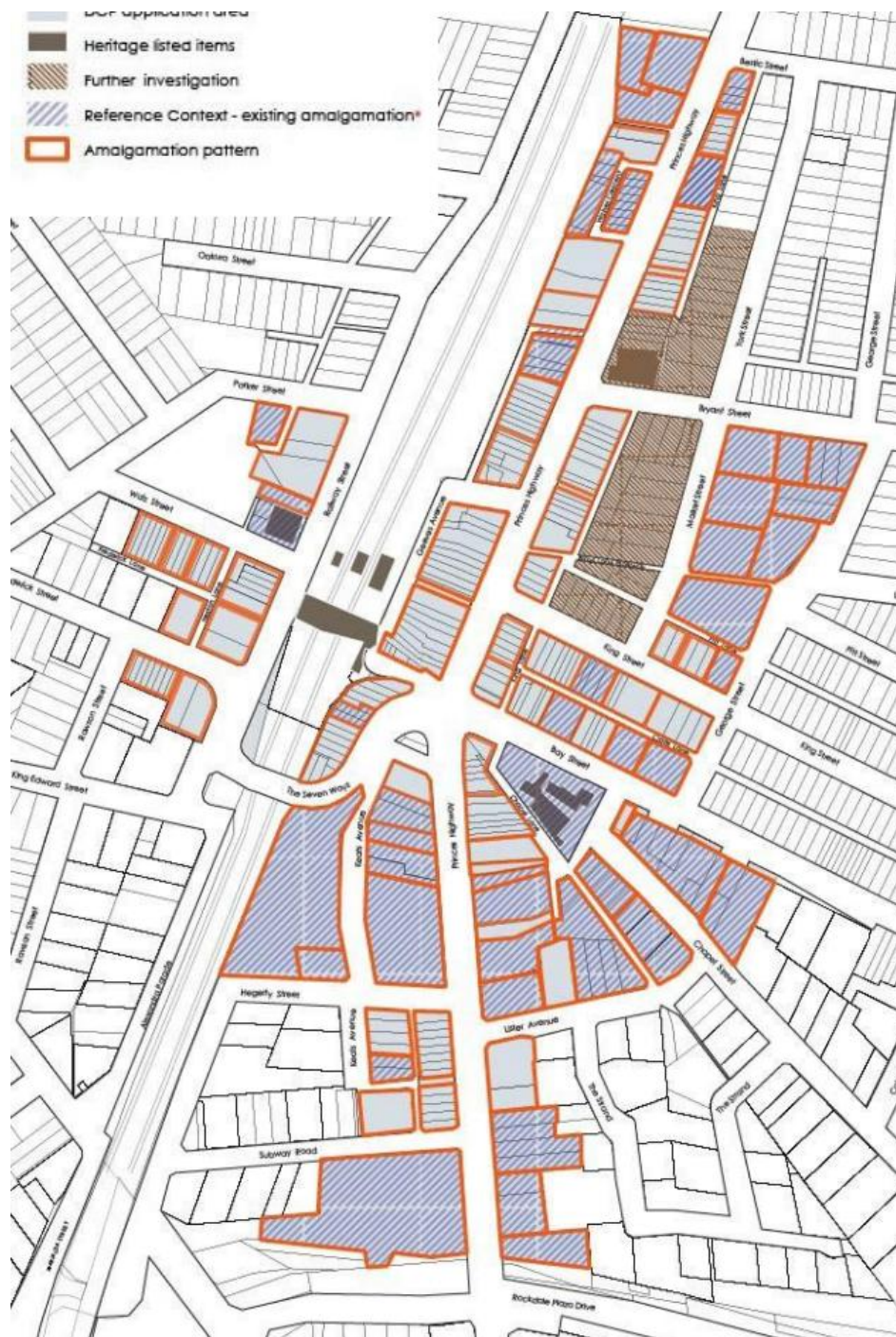


Figure 29: Amalgamation pattern

Figure 9: Excerpt from BDCP 2022 of Figure 29: Amalgamation Pattern of the Rockdale Town Centre.

PART 3 – GENERAL DEVELOPMENT CONTROLS

Part 3.2 – Design Excellence

An assessment against design excellence has been discussed in response to Clause 6.10 of the LEP in the previous section of this report.

Part 3.3 – Energy and Environmental Sustainability

An assessment against energy and environmental sustainability has been discussed in response to SEPP (Sustainable Buildings) 2022, in the previous Section of this report.

Part 3.4 – Heritage

An assessment against heritage has been discussed in response to Clause 5.10 of the LEP, in the previous Section of this report.

Part 3.5 – Transport, Parking and Access

The proposal is unsatisfactory with respect of the technical requirements of Bayside DCP 2022, Bayside Technical Specification Traffic, Parking and Access and AS2890 requirements.

As discussed under Note 1 of State Environmental Planning Policy (Housing) 2021, the requirements of Part 3.5.3 On-site Car Parking Rates of BDCP 2022 stipulate that Council may reduce car parking provision in certain circumstances and permit car share schemes. Part 3.5.9 New and Emerging Transport and Parking Facilities, Control 4 of BDCP 2022 states that 'Council may also consider a car share space in lieu of some resident parking (to replace up to 5 car parking spaces) supported by a traffic and parking study. This parking offset can be used once only.' The aforementioned reduction results in a requirement for 27 car parking spaces plus one (1) car share space for a total of 28 spaces for the co-living element.

The proposal seeks to provide a total of 11 spaces (including the two car share spaces and the car wash bay) in lieu of the 28 required. This indicates a deficiency of 17 on site car spaces for the co living element of the development, resulting in adverse on-street parking impacts to the locality.

The applicant's justification for the variation for 28 car parking spaces for the co-living development is not supported.

The Bayside DCP section 3.5.4 specifies the minimum bicycle and motorcycle parking requirements. For the co-living component, 1 bicycle space is required per room and 1 motorcycle space is required per 5 rooms. So, a provision of 32 motorcycle and 157 bicycle spaces is required under the bayside DCP and this is considered the minimum requirement to satisfy clause 69 (1) (h) of the Housing SEPP. For the commercial component, 4 bicycle spaces and 1 motorcycle is required as per the Bayside DCP Section 3.5.4.

The development only provides 6 motorcycle spaces and 69 bicycle spaces resulting in a shortfall 27 motorcycle spaces and 92 bicycle spaces, resulting in adverse on-street impacts to the locality.

The development includes a commercial component which requires a 1 space per 40m² GFA with the 20% reduction (due to the site being in the Rockdale town centre) as per the Bayside DCP section 3.5.3 C4. Therefore, the commercial development with a GFA of 375m² is required to provide a minimum of 8 on-site car spaces. The proposal seeks to provide a total of 2 car spaces in lieu of the 8 required, this is a deficiency of 6 car spaces. It is noted that Councils current contribution plan permits the levying of contributions for a shortfall in commercial car parking within the Rockdale Town Centre.

Additional information was requested, however no further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

Part 3.6 – Social Amenity, Accessibility and Adaptable Design

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides ramp access into the commercial tenancies and residential lobby area, fire stair and lift access internally.

The applicant has provided an access report prepared by Vista Access Architects Pty Ltd dated 18 August 2024. The report provides assessment against compliance with Deemed-to-Satisfy provisions relating to Access for Persons with a Disability outlined within the National Construction Code Building Code of Australia 2022 Volume One (BCA) and Disability (Access to Premises – Buildings) Standards 2010 Compilation No.2 (DAPS).

Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management

The proposal includes landscaping and tree planting within the public domain, and to communal area on Level 1, and balcony areas of Levels 3 and 6. The Development Application does not provide sufficient information to demonstrate the landscaping design can achieve the objectives and controls of this section. Additional information was requested, primarily to address the issues below:

- a) The landscape site plan proposes recesses in the proposed awning structure over the public pathway to accommodate street tree canopy growth, however the Architectural plans depict an uninterrupted concrete awning for the entire building length facing Geeves Avenue and Princes Highway.
- b) It is not demonstrated that the proposal will support a long term, viable landscape by adopting the minimum dimensions for soil standards at Table 5, 4P of the Apartment Design Guide and 2.2.8 of the Bayside Landscape Technical Specification.
- c) Opportunities to provide external landscaping in consideration of C5(h) and (k) Section 3.2 of BDCP have not been explored in the design.
- d) Use of artificial lighting to supplement passive lighting of landscape areas to support healthy, viable growth is to be detailed.
- e) The details of the proposed street tree plantings are not in accordance with Section 2.3 Works in Public Domain of the Landscape Technical Specification 2022.
- f) Proposed purchase size of main landscape features, noting the very slow growth rate of some proposed species, to demonstrate desirable landscape amenity outcomes such as shade, protection from wind, mitigating the visual scale and bulk of the built elements, will be provided in an acceptable time frame of 5 – 10 years.
- g) There are inconsistencies between the architectural plans with regards to the provision of communal open space and landscaped areas particularly on Level 3, which are depicted on the Site Plan, East and West Elevation Plan and Landscape Plan; however not on the Level 3 Plan.

Additional information was requested; however, no further information was submitted by the applicant. Therefore, there is insufficient information available to satisfy the relevant provisions above.

Part 3.9 – Stormwater Management and WSUD

An assessment against stormwater management has been discussed in response to Clause 6.3 of the LEP, in the previous Section of this report.

Part 3.11 – Contamination

An assessment against contamination has been discussed in the Resilience and Hazard SEPP above.

Part 3.12 – Waste Minimisation and Management

A Waste Minimisation and Management Plan prepared by Archer Consultants Pty Ltd dated August 2024 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site. The architectural plans depict waste storage location within the ground floor level.

Part 3.13 – Areas subject to Aircraft Noise and Airport airspace

An assessment against aircraft noise has been discussed in response to Clause 6.7 and 6.8 of the LEP, in the previous Section of this report.

PART 5 – GENERAL DEVELOPMENT CONTROLS

5.2.7 – Boarding houses and co-living

The relevant controls are assessed against the proposed development as demonstrated below in **Table 5** and considered in more detail below.

Table 5: Assessment against relative Boarding houses and co-living controls in the BDCP 2022.

Control		Comments	Complies (Y/N)
Control - 5.2.7.1 - General			
C2.	A minimum lot width of 24 metres to any street frontage is required for Class 3 boarding house developments and co-living developments.	The consolidated lot has frontage of 21.32m to Princes Highway, 36.905m to Geeves Avenue, and 30.265m to Geeves Lane.	No
C4.	Strata subdivision or community title subdivision is not permitted.	Development is not seeking subdivision.	N/A
C5.	Development must ensure that the proposed FSR, height, setbacks, detailed design and other elements are compatible with predominant scale of development in the local area.	The development is not compliant with regards to building height or setbacks.	No
C6.	Communal open space is located away from habitable rooms of dwellings on adjoining properties.	Communal open space is located away from habitable rooms generally, except for Level 4 indoor communal open space which adjoins a unit.	No
C7.	Private open space and balconies incorporate screening devices to avoid direct overlooking into habitable rooms of dwellings on adjoining properties.	Screening details to balconies unclear.	No

C9.	Screen fencing, plantings, and acoustic barriers are to be incorporated in appropriate locations.	N/A on this site	N/A
C10.	The main entry point of the boarding house is located at the front of the site away from side boundary areas near adjoining properties.	The main entry point for the co-living residential component is via the lobby to Geeves Ave.	Yes
C11.	Sources of noise, such as kitchens, communal rooms and parking areas must be sited and designed to minimise the noise impact on adjoining properties.	Kitchens and communal rooms are located away from adjoining properties.	Yes
C12.	Where required Development Applications for boarding houses and co-living are to be accompanied by a noise assessment prepared by a qualified acoustic consultant, addressing the requirements of the SEPP (Transport and Infrastructure) 2021 and Section 3.14 – Noise and Vibration.	An acoustic report was submitted which was prepared by West and Associates Pty Ltd dated 9 August 2024. The report indicates it is possible for the proposal to achieve compliance.	Yes
C13.	Bedrooms are to be located so that they are separate from significant noise sources. Bedrooms are to incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources.	Bedrooms are generally located so that they are separate from significant noise sources.	Yes
C16.	The minimum ceiling height of all habitable rooms is 2.7m.	3m proposed	Yes
C19.	A Development Application for a boarding house or co-living is to be supported by a written Plan of Management (POM) that describes how the ongoing operation of the boarding house/co-living development will be managed to reduce its impact upon the amenity of surrounding properties.	Plan of Management (POM) has been submitted.	No See discussion at <i>Section 4.15(1)(b) - Likely Impacts of Development</i>
Control - 5.2.7.2 - Solar Access and Overshadowing			
C1.	Development is to be designed and sited to provide a minimum of 3 hours sunlight between the hours of 9.00am and 3.00pm on 21 June to: <ul style="list-style-type: none"> 70% of habitable rooms within the development 	Given the site location as the most southern lot on the block, solar impacts will largely fall onto the public domain. The proposed development has been sited and designed, to protect the adjoining neighbouring buildings solar	Yes

	<ul style="list-style-type: none">all habitable rooms in adjoining residential developments; andprivate open space within the development private open space of adjoining dwellings.	access to living space and private open spaces. See below discussion	
5.2.7.3 - Management			
C2.	Boarding rooms or on-site dwellings, provided for management, shall achieve a minimum area of 16m².	Managers room meets minimum requirements of SEPP.	Yes
C3	Boarding rooms or on-site dwellings, provided for management, shall include private open space which achieves a minimum area of 8m² and a minimum dimension of 2.5m.		
5.2.7.4 - Function, efficiency, and safety			
C1.	Communal spaces, including laundry, bathroom, kitchen and living areas are to be located in safe and accessible locations.	Communal spaces, including bathroom, kitchenette and seating areas.	Yes
C2.	Habitable living areas (such as lounge room, kitchen, dining and bedroom) are to be located to allow general observation of the street and communal open space.	Development will allow for allow general observation of the street from communal space.	Yes
C3.	Building entry points and internal entries to living areas are to be clearly visible from common spaces.	All building entry points are clearly visible.	Yes
C4.	The communal indoor living area has a transparent internal door to enable natural surveillance for resident circulation.	Unclear	Unclear
C5.	A boarding/co-living room is encouraged to have the following facilities; however, is not required to by State Environmental Planning Policy (Housing) 2021: <ul style="list-style-type: none">a. ensuite (which may comprise a hand basin, toilet and shower)b. laundry (which may comprise a wash tub and washing machine)c. kitchenette (which may comprise a small fridge, cupboards and shelves and microwave)	The development has been designed to ensure that the each of the rooms have an ensuite and kitchenette provided. The PoM indicates internal laundry areas are provided, however are not notated on the plans.	Yes

C7	<p>The following communal facilities are to be provided:</p> <ul style="list-style-type: none"> a. living area b. kitchen c. dining d. outdoor open space e. bathrooms f. laundry (where clothes washing facilities not provided in individual rooms) g. outdoor clothes drying are. 	<p>The development has been designed to incorporate living areas, kitchen, dining, outdoor open space, bathrooms and laundry. It is noted that outdoor clothes drying are not provided however is not critical can be replaced using dryers in the proposed laundry.</p>	Yes
C8.	<p>The communal indoor living area can include a dining area but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.</p>	<p>Communal indoor living area have been calculated in accordance with the controls and exceed the requirement as stipulated in the SEPP</p>	Yes
C9.	<p>The communal indoor living area shall have: whichever is greater - a minimum area of 20m² or 1.25m² per resident; and a minimum width of 3m</p>	<p>Communal indoor living area have been calculated in accordance with the SEPP housing</p>	N/A
C10.	<p>The communal indoor living area shall be located:</p> <ul style="list-style-type: none"> a. near commonly used spaces, such as kitchen, laundry, lobby entry area or manager's office b. adjacent to communal open space c. to receive a minimum 3 hours solar access to at least 50% of the windows during 9am and 3pm in June d. on each level of a multi-storey boarding house, where appropriate e. where they will have minimal impact on bedrooms and adjoining properties 	<p>The views from the sun cannot be relied upon due to the inconsistencies with the floor plans and the lack of clarity around communal room locations and areas. The views from the sun assume any future adjacent tower floor would be located well away from the application. This cannot be assumed given the application does not comply with the amalgamation pattern.</p>	No
C11.	<p>Communal outdoor open space shall be located and designed to:</p> <ul style="list-style-type: none"> a. receive a minimum 2 hours of solar access to at least 50% of the area during 9am and 3pm on 21 June b. be provided at ground level in a courtyard or terrace area c. provide weather protection d. incorporate 50% soft landscaping of the area e. be connected to communal indoor spaces, such as kitchen or living areas 	<p>The outdoor communal open space in the floor plans is located on level 1 embedded in the centre of the building. Based on the view from the sun drawings it would not achieve any solar access and does not comply with Part 5.2.7.4 of BDCP.</p> <p>The amenity of this external space is very poor. It is located in a lightwell and is overlooked and over sailed by an elevated passageway on level 2 and the corridor serving the rooms. No other COS is indicated on the floor plans.</p>	No

	<p>f. contain communal facilities such as a toilet, outdoor drying, barbecues, seating, and pergolas where appropriate</p> <p>be screened from adjoining properties and the public domain</p>		
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Development Contributions

The following contributions 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):

- Rockdale Section 94 Contributions Plan 2004 (Amendment 5)
- Housing Productivity Contributions

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

In terms of provisions of the Regulation:

- The DA submission does not include sufficient information to enable environmental assessment of the application (Clause 24);
- Relevant concurrences or other approvals required haven not been obtained (Clause 25);
- No approval under the Local Government Act 1993 is sought as part of this DA (Clause 31(3)); and
- Demolition works are able to meet the provisions of Australian Standard (“AS”) 2601 and this is addressed by conditions of consent.

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Plan of Management

A Plan of Management (PoM) is a document in progress which provides assurance to local residents that the general operation of the use of the site can and will be appropriately managed. A PoM prepared by Emag Apartments Pty Ltd dated August 2024 was submitted.

The PoM details the operation and management of the proposed use, including but not limited to, hours of operation, staffing, management obligations, waste management, noise management, safety and security, complaints register etc.

On 1 November 2005, the Land & Environment Court in its approval of a commercial / residential development in '*NSWLEC 315, Renaldo Plus 3 Pty Ltd v Hurstville City Council*' established eight Planning Principles for consideration as part of an assessment of the appropriateness and adequacy of a Plan of Management.

The submitted Plan of Management lacks sufficient detail having regard to the Planning Principles established above. Additional information was requested to address the planning principles; however, no further information was submitted. Therefore, there is insufficient information available to be satisfied that the PoM will sufficiently manage site operations.

3.3 Section 4.15(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, throughout this report. The proposal does not sufficiently address environmental impacts to determine the suitability of the site for the proposed development.

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

The submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As demonstrated in this assessment of the development application, the proposal is not considered suitable for the site and will have unreasonable environmental impacts. Impacts on adjoining properties have been considered and addressed. As such, the proposal is not considered to be in the public interest.

4. REFERRALS AND SUBMISSIONS

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 5.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Sydney Trains	s2.99, Chapter 2, SEPP (Transport and Infrastructure) 2021	RFI issued directly to applicant 19 November 2024. Applicant did not provide additional information. Insufficient information available for assessment.	No
Transport for New South Wales	Section 138 of the Roads Act 1993	Supported – subject to conditions	Yes
WaterNSW	S90(2), Water Management Act 2000	Refusal of GTA's issued 16 May 2025 due to insufficient information.	No
Referral/Consultation Agencies			
Ausgrid	s2.48, Chapter 2, SEPP (Transport and Infrastructure) 2021	Supported – subject to conditions	Yes
Sydney Water	Sydney Water Act 1994 Section 78	Supported – subject to conditions	Yes
Sydney Airport	s6.7 of Bayside LEP 2021	SACL issued RFI, applicant did not provide additional information. Insufficient information available for assessment.	No
Transport for New South Wales	s2.119, Chapter 2, SEPP (Transport and Infrastructure) 2021	Supported – subject to conditions	Yes
Design Review Panel	Cl 6.10 – BLEP 2021 Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed under cl 6.10 of the BLEP 2021 and the Key Issues section of this report.	No
Integrated Development (S 4.46 of the EP&A Act)			
Water NSW	Water Management Act 2000 s90(2) water management work approval	RFI requested on 13 November 2024, and again on 6 December 2024 as no response was received. Applicant responded 8 January 2025. WaterNSW has not responded yet.	No

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Development Engineer requested additional information to address issues raised. No further information was submitted.	No
Landscape Officer	Council's Landscape Officer requested additional information to address issues raised. No further information was submitted.	No
Environmental Scientist	Council's Environmental Scientist requested additional information to address issues raised. No further information was submitted.	No
Heritage	Council's Heritage Officer did not raise any objection.	Yes
Waste	Council's Waste Officer did not raise any objection.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the DCP from 31 October 2024 until 2 December 2024. A total of one (1) unique submission was received. The submission is generally in support of the proposal and only raises an issue with the treatment of the setbacks and configuration of the commercial ground floor component as discussed below.

Table 7: Community Submissions

Issue	Council Comments
Setbacks to Commercial Level Submissions raised concern the egregious setback to the ground floor commercial level	<p>The application proposes two ground floor commercial tenancies comprising 374.8m² of floor area. The smaller tenancy (85.8m²) is fronting Geeves Ave and the larger tenancy (289m²) to the corner of Geeves Ave and Princes Highway.</p> <p>The objector has raised concern over the size of these tenancies, and setback treatment to the corner of Geeves Ave and Princes Highway. They have indicated <i>"maintaining fine grain retail space that meets at right angles along this intersection"</i> would be better suited to the site.</p> <p>The setback and treatment to the ground floor corner is in accordance with DCP requirements. Council does not have objections to the commercial tenancy configuration.</p>

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- 5.1 **Design Excellence** – The proposal is subject to s6.10 **Design Excellence** under the BLEP 2021. The Design Review Panel has requested amendment and is not satisfied.
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.
- 5.2 **Height of Building** – The maximum permitted building height under cl4.3 of the BLEP 2021 is 34m. The proposal seeks approval for a maximum building height of 39.9m which results in a variation of 5.9m or 17.3%. The submitted variation request does not sufficiently address the requirements of cl4.6 of the BLEP and therefore is not supported.
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.
- 5.3 **Car Parking** – The proposal results in a deficiency in car parking having regard to the provisions of both SEPP (Housing) 2021 Chapter 3 – Part 3 – 68(2)(e) and Part 3E of the BDCP. Further, the variation to car parking under the provisions of the SEPP requires a written variation request as it is a departure from a non-discretionary development standard. No variation request has been submitted, therefore cannot be supported.
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.
- 5.4 **Solar Access** – The proposal provides insufficient information to demonstrate solar compliance with SEPP (Housing) 2021 Chapter 3 – Part 3 – 69 (2)(c).
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.
- 5.5 **Building Separation** – The proposal does not comply with the ADG building separation requirements under 2F & 3F as required by SEPP (Housing) 2021.
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.
- 5.6 **Aircraft Noise** – The subject site is affected by the ANEF 20-25 contour and will result in the increase in the number of dwellings and people on the site under cl6.8 of the BLEP. An Acoustic Report was submitted for assessment, however does not provide assessment for aircraft noise. Therefore, the application provides insufficient information to determine impacts.
Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.7 **Inconsistency in drawings** – There is an inconsistency between plans submitted which do not allow for the accurate assessment of amenity impacts, solar access, communal open space, or landscaping.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.8 **Amalgamation Pattern** – The proposed Amalgamation Pattern is inconsistent with that of the DCP and gives rise to a number of issues with amenity and building separation due to the reduced site area relative to the DCP envelope.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.9 **Plan of Management** – The Plan of Management lacks sufficient detail with regards to site operations and ongoing use.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.10 **Sydney Trains** - Sydney Trains was referred in accordance with s2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.11 **Sydney Airport** - Sydney Airport was referred in accordance with cl6.7 of the BLEP 2021. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.12 **WaterNSW** – WaterNSW was referred in accordance with s90(2) of the Water Management Act as the proposal is for integrated development and requires approval for water supply works. Additional information was requested. No further information was submitted, therefore there is insufficient information available for accurate assessment.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.13 **Contamination** – The proposal provides insufficient information to satisfy the provisions of Chapter 4 – Remediation of Land under SEPP (Resilience and Hazards) 2021.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.14 **Stormwater** – The proposal provides insufficient information to satisfy the provisions of cl6.3 of the BLEP 2021. Additional information was requested. No further information

was submitted, therefore there is insufficient information available for accurate assessment.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

- 5.15 Landowners Consent** - TfNSW records indicate that Geeves Avenue adjoining the subject site is owned by TAHE. The Proposed Development relies on access from Geeves Avenue and includes works along the pedestrian walkway within TAHE land. Relevant owners consent was requested, however has not been obtained.

Resolution: The issue has not been resolved and accordingly, warrants refusal of the application.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported for the reasons outlined within the recommendation section of this report. The following attachments are provided:

- Attachment 1: Architectural Drawings
- Attachment 2: Clause 4.6 Request – cl4.3 Height of Buildings
- Attachment 3: Shadow Studies
- Attachment 4: Landscape Plans
- Attachment 5: Stormwater Management Plan
- Attachment 6: Survey Plan
- Attachment 7: Statement of Environmental Effects
- Attachment 8: Design Excellence Assessment
- Attachment 9: Massing Diagram
- Attachment 10: Traffic Impact Assessment Report
- Attachment 11: Wind Report
- Attachment 12: Plan of Management
- Attachment 13: Access Report
- Attachment 14: Acoustic Report
- Attachment 15: BCA Compliance Report
- Attachment 16 Waste Management Plan
- Attachment 17: Geotechnical Assessment Report
- Attachment 18: Cost Summary Report
- Attachment 19: TfNSW – Concurrence
- Attachment 20: WaterNSW – additional information request
- Attachment 21: Ausgrid letter of consent
- Attachment 22: Design Review Panel Minutes
- Attachment 23: Sydney Water – approval with conditions
- Attachment 24: Sydney Trains – additional information request
- Attachment 25: WaterNSW – Refusal of GTA's
- Attachment 26: Sydney Airport – additional information request
- Attachment 27: Dewatering Management Plan
- Attachment 28: Hydrogeology Report

7. RECOMMENDATION

That the Development Application [DA No 2024/286] for Integrated Development - Demolition of existing structures and construction of a twelve-storey shop top housing development consisting of two commercial tenancies at ground floor level with residential co-living above, basement car parking and landscaping at 465-469 Princes Highway & 5-7 Geeves Avenue ROCKDALE be REFUSED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
2. Pursuant to the provisions of Section 4.46 of the *Environmental Planning and Assessment Act 1979*, the application is Integrated Development, however, has not obtained the relevant approval from WaterNSW under the *Water Management Act 2000*.
3. Pursuant to the provisions of Section 2.99 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* the proposed development has not obtained the relevant approvals required under this section.
4. Pursuant to the provisions of Section 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021* the proposed development has provided insufficient information to determine site suitability with regards to contamination.
5. Pursuant to the provisions of Clause 6.7 of the BLEP 2021 the proposed development has not obtained the relevant approval required by Sydney Airport.
6. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, provides insufficient information with respect to Chapter 3 of *State Environmental Planning Policy (Sustainable Buildings) 2022* particularly regarding the non-residential component.
7. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, provides insufficient information with respect to Chapter 3 of *State Environmental Planning Policy (Housing) 2021* particularly regarding site amalgamation, building separation, car parking, solar access, and internal amenity.
8. Pursuant to the provisions of s68 of Chapter 3 of *State Environmental Planning Policy (Housing) 2021*, the proposal has not provided a variation request for the departure from the car parking development standard and therefore cannot be supported.
9. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy to following provisions of the Bayside Local Environmental Plan 2021:
 - a. E1 Local Centre Zone objectives
 - b. Clause 4.3 – Height of buildings
 - c. Clause 4.6 – Exceptions to development standards
 - d. Clause 6.2 – Earthworks
 - e. Clause 6.3 – Stormwater and water sensitive urban design
 - f. Clause 6.7 – Airspace operations
 - g. Clause 6.8 – Development in areas subject to aircraft noise
 - h. Clause 6.10 – Design excellence

10. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the following provisions of the Bayside Development Control Plan 2022:
- a. Part 3.2 – Design Excellence
 - b. Part 3.3 – Energy and Environmental Sustainability
 - c. Part 3.5 – Transport, Parking and Access
 - d. Part 3.7 – Landscaping, Private Open Space and Biodiversity
 - e. Part 3.9 – Stormwater Management and Water Sensitive Urban Design
 - f. Part 3.11 – Contamination
 - g. Part 3.13 – Development in areas subject to aircraft noise and affected by Sydney Airport’s prescribed airspace
 - h. Part 5.2.7 – Boarding houses and co-living
 - i. Part 7.2 – Rockdale Town Centre
11. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.