

NOTICE

Bayside Local Planning Panel - Other Applications
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 28 October 2025 at 5:00 PM**
to consider items outside the public meeting
in accordance with the Operational Procedures.

Members of the public do not have the opportunity to speak on these items.

ON-SITE INSPECTIONS

On-site inspections are undertaken beforehand.

AGENDA

1 ACKNOWLEDGEMENT OF COUNTRY

Bayside Council acknowledges traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

Nil

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2025/167 - 2 Fox Lane Rockdale (aka 401-405 Princes Highway
Rockdale) - Development Application2

Meredith Wallace
General Manager

Bayside Local Planning Panel - Other Applications

28/10/2025

Item No	6.1
Application No	DA-2025/167
Property	2 Fox Lane Rockdale (aka 401-405 Princes Highway Rockdale)
Application Type	Development Application
Proposal	Integrated Development - Amendment to DA-2016/150 including an additional three (3) storeys and an additional 19 units, resulting in a 10 storey building comprising 59 units, internal and external changes and amendments to materials and finishes
Owner	Mark Taouk / Anita Simonovski
Applicant	Place Studio Au Pty Ltd
Ward	Ward 3
Lodgement Date	30/06/2025
No. of Submissions	Nine (9)
Cost of Development	\$5,676,394.00
Reason Criteria	Sensitive development
Report by	Peter Barber, Director City Futures

Reason for Report

This application has been referred to the Bayside Local Planning Panel (BLPP) for the following reason:

- In accordance with Schedule 1, Section 4(b) – Sensitive Development Standards of the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), Development to which State Environmental Planning Policy (Housing) 2021 Chapter 4 (Design of Residential Apartment Development) applies.

The proposal triggers Chapter 4 of the aforementioned SEPP and thus necessitates determination by the Bayside Local Planning Panel (BLPP).

Officer Recommendation

That the Bayside Local Planning Panel is not satisfied with the applicant's written request to contravene Clause 4.3 – Height of Building of the Bayside Local Environmental Plan 2021 has not adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan.

1. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2025/167 for Integrated Development - Amendment to DA-2016/150 including an additional three (3) storeys and an additional 19 units, resulting in a 10 storey building comprising 59 units, internal and external changes and amendments to materials and finishes at 2 Fox Lane, ROCKDALE NSW 2216 (aka 401

Princes Highway, ROCKDALE NSW 2216) for REFUSAL for the following reasons;

- (A) Pursuant to the Objects of Act in Section 1.3 of the Environmental Planning and Assessment Act 1979, the proposed development is an excessive overdevelopment and unreasonable intensification of the land use resulting in adverse visual, amenity and built environment (bulk and scale and streetscape) impacts in contradiction with the following Objects of the Environmental Planning and Assessment Act 1979;

(c) to promote the orderly and economic use and development of land,

(g) to promote good design and amenity of the built environment.

- (B) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy State Environmental Planning Policy (Resilience and Hazards) 2021 as insufficient information has been submitted in order to confirm that the site is or can be made suitable for the proposed development.

- (C) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the aims and requirements of State Environmental Planning Policy (Housing) 2021 and was not supported by Councils Design Review Panel.

- (D) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and design criteria of the Apartment Design Guide with respect of;

i. Part 3F – Visual and Acoustic Privacy. Insufficient building separation is provided with southern properties which are not yet redeveloped to their full potential.

ii. Part 3J - Bicycle & Car Parking. Insufficient bicycle and motorcycle parking is provided for the development on site.

iii. Part 4A – Solar and Daylight Access – Insufficient solar access is achieved in midwinter to residential dwellings within the proposed development.

iv. Part 4B – Natural Ventilation – Insufficient cross ventilation is achieved to residential dwellings within the proposed development.

v. Part 4C – Ceiling Height - Insufficient floor to floor heights are proposed, which do not enable the required minimum 2.7m floor to ceiling height for habitable rooms to be achieved.

- (E) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and requirements of Bayside Local Environmental Plan 2021 with respect to the following;

i. Clause 4.3 – Height of Building

ii. Clause 4.6 – Exception of Development Standards

- iii. Clause 6.7 - Airspace Operations
- iv. Clause 6.10 – Design Excellence.

(F) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and requirements of the following parts of Bayside DCP 2022;

- i. Part 3.2 – Design Excellence – The proposal does not demonstrate design excellence and was not supported by Councils Design Review Panel.
- ii. Part 3.5 - Transport, Parking and Access – Insufficient bicycle and motorcycle parking spaces are provided within the development.
- iii. Part 3.6 – Social Amenity, Accessibility and Adaptable Design – A minimum of six accessible dwellings are required within the development and only five are proposed.
- iv. Part 3.12 – Waste Minimisation and Management – The on site loading and unloading dock is undersized for waste collection. The driveway grades do not comply with AS2890.2 requirements for a Medium Rigid Vehicle (MRV), and the headroom clearance is insufficient to accommodate such a vehicle servicing the development.
- v. Part 3.13 – Areas subject to Aircraft Noise and Airport Airspace – The proposal adversely impacts upon the prescribed airspace of Sydney Airport.
- vi. Part 7.2 – Rockdale Town Centre – The proposal is inconsistent with the future desired character of the area.

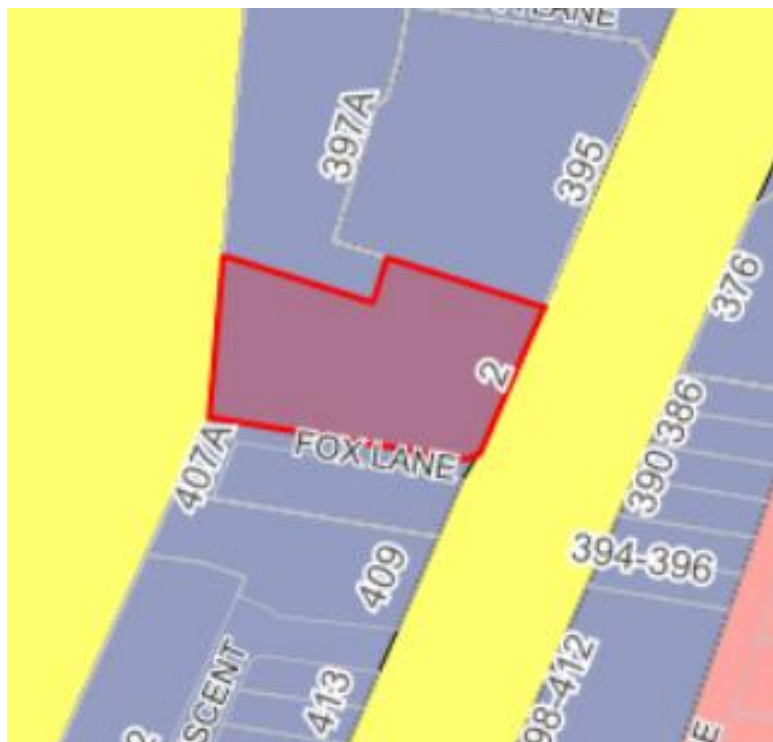
(G) The proposal is inconsistent with the requirements of Bayside Council Technical Specification Waste Management 2022 which requires this development to be serviced by Council garbage truck (11m long HRV). Insufficient dimensions for loading dock, head height clearance, gradients and paths of travel are proposed.

(H) The proposal results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment. The site is not suitable for the proposal in its current design and form.

(I) Pursuant to the provisions of Section 4.15(1)(b) and 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. That the submitters are to be notified of the Panel's decision.

Location Plan



Attachments

- 1 [↓](#) Council Assessment Report
- 2 [↓](#) Sydney Airport Response
- 3 [↓](#) Solar Access Assessment by Applicant
- 4 [↓](#) Shadow Diagrams
- 5 [↓](#) Statement of Environmental Effects
- 6 [↓](#) Clause 4.6 Request for Variation
- 7 [↓](#) Architectural Plans
- 8 [↓](#) Landscape Plan

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	DA-2025/167
Date of Receipt:	30/06/2025
Property:	2 Fox Lane, ROCKDALE NSW 2216 (aka 401 Princes Highway, ROCKDALE NSW 2216) Lot 100 DP 1097898
Owner:	Mark Taouk / Anita Simonovski
Applicant:	Place Studio Au Pty Ltd
Architect:	Place Studio Au Pty Ltd
Town Planner:	BMA Urban
Proposal:	Integrated Development - Amendment to DA-2016/150 including an additional three (3) storeys and an additional 19 units, resulting in a 10 storey building comprising 59 units, internal and external changes and amendments to materials and finishes
Recommendation:	Refusal
No. of submissions:	Nine (9)
Author:	Fiona Prodromou
Date of Report:	September 2025

Reason for Report

This application has been referred to the Bayside Local Planning Panel (BLPP) for the following reason:

- In accordance with Schedule 1, Section 4(b) – Sensitive Development Standards of the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces (dated 6 March 2024), Development to which State Environmental Planning

Policy (Housing) 2021 Chapter 4 (Design of Residential Apartment Development) applies.

The proposal triggers Chapter 4 of the aforementioned SEPP and thus necessitates determination by the Bayside Local Planning Panel (BLPP).

Key Issues

The subject site is located within Sydney Airport's Obstacle Limitation Surface and PANS-OPS surfaces, which at this location have a height of 49.3AHD. The proposal reaches 50.09RL to the top of the Telstra infrastructure on the rooftop and 49.865RL to the top of the proposed lift overrun. The proposal was referred to Sydney Airport, concurrence was not provided.

The application is subject to the Design Excellence requirements of Clause 6.10 – Design Excellence of Bayside LEP 2021. The proposal was considered by the Design Excellence Review Panel (DERP) and the Panel concluded that the proposal did not demonstrate design excellence in its current form. The design issues raised by the Panel are discussed in detail in this report.

The proposal is unsatisfactory with respect of the relevant requirements of State Environmental Planning Policy (Housing) 2021 and the Apartment Design Guide, as further detailed within this report.

The proposal further demonstrates non compliances with Bayside DCP 2022, as further detailed within this report.

The proposal was notified in accordance with Council's Community Participation Plan and a total of nine (9) submissions were received in a pro forma format. Issues raised in submissions are discussed in this report.

The development application ("DA") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and is recommended for Refusal for the reasoning provided within this report.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Recommendation

1. That the Bayside Local Planning Panel is not satisfied with the applicant's written request to contravene Clause 4.3 – Height of Building of the Bayside Local Environmental Plan 2021 has not adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2025/167 for Integrated Development - Amendment to DA-2016/150 including an additional three (3) storeys and an additional 19 units, resulting in a 10 storey building comprising 59 units, internal and external changes and amendments to materials and finishes at 2 Fox Lane, ROCKDALE NSW 2216 (aka 401 Princes Highway, ROCKDALE NSW 2216) for

REFUSAL for the following reasons;

- (A) Pursuant to the Objects of Act in Section 1.3 of the Environmental Planning and Assessment Act 1979, the proposed development is an excessive overdevelopment and unreasonable intensification of the land use resulting in adverse visual, amenity and built environment (bulk and scale and streetscape) impacts in contradiction with the following Objects of the Environmental Planning and Assessment Act 1979;

(c) to promote the orderly and economic use and development of land,

(g) to promote good design and amenity of the built environment.

- (B) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy State Environmental Planning Policy (Resilience and Hazards) 2021 as insufficient information has been submitted in order to confirm that the site is or can be made suitable for the proposed development.

- (C) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the aims and requirements of State Environmental Planning Policy (Housing) 2021 and was not supported by Councils Design Review Panel.

- (D) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and design criteria of the Apartment Design Guide with respect of;

- i. Part 3F – Visual and Acoustic Privacy. Insufficient building separation is provided with southern properties which are not as yet redeveloped to their full potential.
- ii. Part 3J - Bicycle & Car Parking. Insufficient bicycle and motorcycle parking is provided for the development on site.
- iii. Part 4A – Solar and Daylight Access – Insufficient solar access is achieved in midwinter to residential dwellings within the proposed development.
- iv. Part 4B – Natural Ventilation – Insufficient cross ventilation is achieved to residential dwellings within the proposed development.
- v. Part 4C – Ceiling Height - Insufficient floor to floor heights are proposed, which do not enable the required minimum 2.7m floor to ceiling height for habitable rooms to be achieved.

- (E) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and requirements of Bayside Local Environmental Plan 2021 with respect of the following;

- i. Clause 4.3 – Height of Building
- ii. Clause 4.6 – Exception of Development Standards
- iii. Clause 6.7 - Airspace Operations
- iv. Clause 6.10 – Design Excellence.

(F) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development fails to satisfy the objectives and requirements of the following parts of Bayside DCP 2022;

- i. Part 3.2 – Design Excellence – The proposal does not demonstrate design excellence and was not supported by Councils Design Review Panel.
- ii. Part 3.5 - Transport, Parking and Access – Insufficient bicycle and motorcycle parking spaces are provided within the development.
- iii. Part 3.6 – Social Amenity, Accessibility and Adaptable Design – A minimum of six accessible dwellings are required within the development and only five are proposed.
- iv. Part 3.12 – Waste Minimisation and Management – The on site loading and unloading dock is undersized for waste collection. The driveway grades do not comply with AS2890.2 requirements for a Medium Rigid Vehicle (MRV), and the headroom clearance is insufficient to accommodate such a vehicle servicing the development.
- v. Part 3.13 – Areas subject to Aircraft Noise and Airport Airspace – The proposal adversely impacts upon the prescribed airspace of Sydney Airport.
- vi. Part 7.2 – Rockdale Town Centre – The proposal is inconsistent with the future desired character of the area.

(G) The proposal is inconsistent with the requirements of Bayside Council Technical Specification Waste Management 2022 which requires this development to be serviced by Council garbage truck (11m long HRV). Insufficient dimensions for loading dock, head height clearance, gradients and paths of travel are proposed.

(H) The proposal results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment. The site is not suitable for the proposal in its current design and form.

(I) Pursuant to the provisions of Section 4.15(1)(b) and 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.

3. That the submitters be notified of the Panel's decision.

Background

History

DA-2016/150 – Approved Bayside Planning Panel - Deferred Commencement - 27 March 2018

Integrated Development - Construction of a seven (7) storey mixed use development comprising 39 residential units, two (2) commercial units and four (4) levels of basement parking. DC Consent subsequently activated.

First Modification Application – Approved 12 November 2019

Modification to increase apartment numbers to 47; increase number of commercial tenancies to three (3); reduce the extent of excavation by deleting one basement level; reduce plant requirements, changes to internal layout; podium level and changes to facade details.

Second Modification Application – Approved 25 March 2022

Extension of the period of the Deferred Commencement period

Third Modification Application – Approved by Court – 17 September 2023

Integrated Development - Modifications to DA-2016/150 including two additional basement levels, changes to building footprint, layout changes to all floor levels, facade changes and inclusion of winter gardens.

Proposal

The proposed development is summarized as follows:

	Approved	Proposed
Unit Mix	40 units 3 x studio 6 x 1 bed 20 x 2 bed 11 x 3 bed	59 units 3 x studio 6 x 1 bed 32 x 2 bed 18 x 3 bed (19 additional)
Building Height	26.5m	34.435m
Car Parking	93	92 (inclusive of 1 x car wash)
Loading / Unloading	Mini loader	Mini Loader
Commercial GFA	275sq/m	246sq/m (29sq/m reduction)

Basement 5 (520RL) (Basement footprint & RL as previously approved)

- 21 car spaces including 1 x accessible.
- Storage, fire stair egress, plant / services, lift access, pedestrian and vehicle circulation.

Basement 4 (3.31RL) (Basement footprint & RL as previously approved)

- 19 car spaces including 1 x accessible.
- Storage, fire stair egress, plant / services, lift access, pedestrian and vehicle circulation.

Basement 3 (6.1RL) (Basement footprint & RL as previously approved)

- 18 car spaces including 3 x accessible.
- Storage, fire stair egress, plant / services, lift access, pedestrian and vehicle circulation.

Basement 2 (8.89RL) (Basement footprint & RL as previously approved)

- 15 car spaces including 3 x accessible
- 1 x car wash bay.
- 3 x motorcycle spaces
- Storage, fire stair egress, plant / services, lift access, pedestrian and vehicle circulation.

Basement 1 (11.68RL) (Basement footprint & RL as previously approved)

- 18 car spaces including 3 x accessible
- 1 x car wash bay.
- 1 x motorcycle space
- 11 bicycle spaces
- Storage, fire stair egress, plant / services, lift access, pedestrian and vehicle circulation.

Ground Floor Level (15.54RL) (footprint, level and vehicular access remain as previously approved)

- 2 x commercial premises and adjoining outdoor seating area fronting the Princes Highway
- Internal reconfiguration and resizing of commercial premises and associated spaces at this level.
- Reduction in size of loading dock from 43sq/m to 38sq/m.
- Decrease in commercial waste store from 16sq/m to 15sq/m
- Increase in size of residential waste bin holding room from 20sq/m to 28sq/m.
- Introduction of FOGO 7sq/m room
- Residential bulk waste store increased from 10sq/m to 23sq/m.
- OSD tank room relocated.

Level 1 (19.34RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.

Level 2 (22.44RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.

Level 3 (25.54RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.

Level 4 (28.64RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.

Level 5 (31.74RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.

Level 6 (34.844RL) (Footprint / layout / level as approved)

- Minor adjustment to fire stair to accommodate pressurization riser.
- 1 x 3 bedroom unit (602) converted into 2 x 2 bedroom units (602/606)

Level 7 (37.94RL)

- Minor adjustment to fire stair to accommodate pressurization riser.
- Addition of residential level incorporating 6 units in total, being 3 x 3 bed and 3 x 2 bedroom dwellings with associated private open space areas.
- Communal lift access and circulation.
- Associated service cupboards and waste chutes.

Level 8 (41.04RL)

- Minor adjustment to fire stair to accommodate pressurization riser.

- Addition of residential level incorporating 6 units in total, being 3 x 3 bed and 3 x 2 bedroom dwellings with associated private open space areas.
- Communal lift access and circulation.
- Associated service cupboards and waste chutes.

Level 9 (44.14RL)

- Minor adjustment to fire stair to accommodate pressurization riser.
- Addition of residential level incorporating 6 units in total, being 2 x 3 bed and 4 x 2 bedroom dwellings with associated private open space areas.
- Communal lift access and circulation.
- Associated service cupboards and waste chutes.
- Addition of third lift to facilitate rooftop access.

Rooftop (47.24RL)

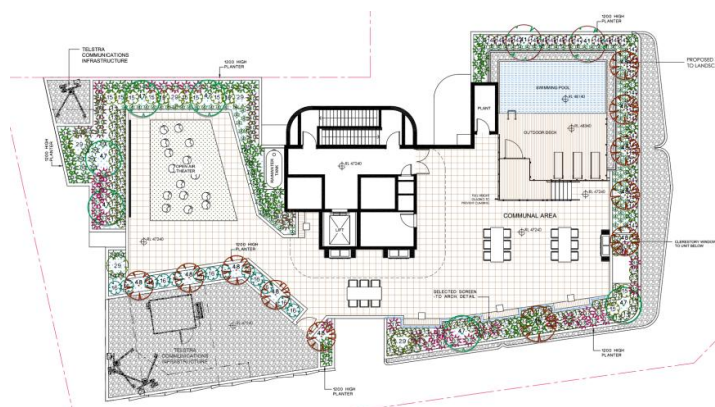
- Enclosed communal lift access, circulation and associated service cupboards.
- Solar panels at rooftop of lift overrun.
- Accessible change room and rainwater tank.
- Plant room adjoining swimming pool and raised outdoor deck.
- Outdoor communal space with tables, chairs, and outdoor open air theatre.
- Landscape planters to periphery.
- Telstra communications infrastructure.

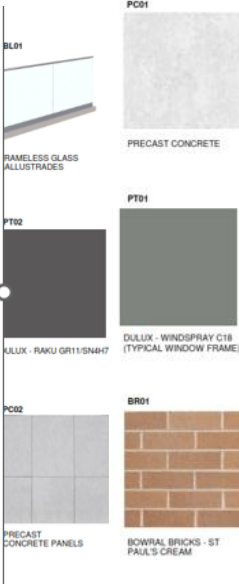
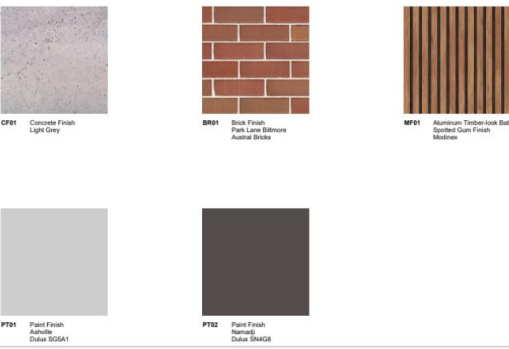
Stormwater

- Minor change to the location of the OSD tank on site within the ground floor level of the development.
- Emergency overflow redirected through to the outdoor seating area.

Communal Open Space

- Rooftop COS incorporating lift access, fire stairs, accessible toilet / change room, swimming pool and adjoining raised deck, seating areas, periphery landscaping and associated installation of Telstra infrastructure.



Photomontage – Approved Scheme	Photomontage – Proposed Scheme
	
Approved Materials	Proposed Materials
 BL01 FRAMELESS GLASS ALLUSTRADES PC01 PRECAST CONCRETE PT02 DULUX - RAKU GR11/SN47 PT01 DULUX - WINDSPRAY C18 (TYPICAL WINDOW FRAME) PC02 PRECAST CONCRETE PANELS BR01 BOWRAL BRICKS - ST PAUL'S CREAM	 CP01 Concrete Finish Light Grey BR01 Brick Finish Park Lane Bricks BF01 Aluminium Timber Look Balcony Spotted Gum Finish Matte PT01 Paint Finish Anthracite Dulux SG5A1 PT02 Paint Finish Navy Dulux SN458

Site Location and Context

The subject site is currently vacant and zoned MU1 – Mixed Use. The development site consists of Lot 100 in DP 1097898. The subject site has two street frontages to Princes Highway (east) and Fox Lane (south). The subject site is irregular in shape and comprises of a 26.015 metre eastern Princes Highway boundary, a 2.37 metre south-eastern splay to the corner of Fox Lane and Princes Highway, a 43.075 metre southern Fox Lane boundary, a 26.6 metre western boundary abutting the Illawarra line railway, a 25.82 metre (part) northern boundary, a 7.705 metre (part) western boundary and a 27.1 metre (part) northern boundary. The development site area is 1,306m².

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

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

- A / B.** Easement for telecommunications & drainage purposes, 7.5m wide, limited in height, along the northern side boundary of the site with 397A Princes Highway.
- C.** Right of Access and easement for parking 6.2m wide, part limited in height, running the length of the rear boundary of the site.
- D.** Right of footway 1.2m wide along entire frontage to Fox Lane, benefitting Bayside Council.
- E.** Easement for drainage 1.83m wide, running the depth of the site from the Princes Highway to the rear boundary of the property.
- F.** Easement for access and drainage variable width

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

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

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

The image below illustrates the site along with existing approvals and / or applications in context of the site.



A	2 Fox Lane, Rockdale	Subject Site
B	397A Princes Highway Rockdale	Existing Telstra Exchange Facility
C	397 Princes Highway Rockdale	11 storey mixed use building (91 units / 3 commercial / 3 basement levels)
D	376-384 Princes Highway Rockdale	9 storey mixed use building (35 units / 2 commercial / 2 basement levels)
E	386-396 Princes Highway Rockdale	Refusal (9 storey mixed use building (42 units / 4 commercial / basement parking)
F	398-412 Princes Highway Rockdale	9 storey mixed use development (60 units / 4 commercial / basement carparking) <i>Lapsed Consent</i>
G	413-425 Princes Highway Rockdale	10 storey commercial building with 3 levels basement. <i>Existing consent Approved 31/07/2024.</i>
H	427-429 Princes Highway Rockdale	Under Construction 11 storey mixed use development (80 units / 2 commercial / basement car parking)
I	1-2 Waines Crescent Rockdale	Under Construction 7 storey mixed use development (50 units / 2 commercial / basement parking)

Adjoining the subject site, to the west, adjoining the rear boundary is the Railway Corridor, which comprises numerous one-and-two brick buildings, rail sidings and signal box and buildings and are within the 'Rockdale Railway Station and Yard Group' heritage item I222 which is of state significance. Although the site adjoins the railway corridor to the rear, the physical railway line is positioned a minimum of 21m from the rear boundary of the subject site.

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

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.46 – Development that is Integrated Development

Although consent exists for the approved basement footprint and depth, the current application is an amending DA which proposes internal modifications to the approved basement levels. As the application is an amending DA, this triggers the integrated development provisions of the Act, requiring re-referral to Water NSW, notwithstanding that the existing consent already incorporates General Terms of Approval (GTA) issued by Water NSW.

The proposal was referred to Water NSW however, at the time of finalising this assessment, no response had been received. As the footprint and depth of excavation remain consistent with the previous approval, it is anticipated that the GTA are unlikely to differ from those already issued. Notwithstanding this, section 4.47(2) of the Act requires that the relevant GTA be obtained before consent can be granted. Accordingly, the issuance of the GTA remains a jurisdictional requirement.

(2) Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent.

S4.15 (1) - Matters for Consideration - General

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

The applicant has submitted a BASIX Certificate for the proposed development, being Certificate number 983154M_05. Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy Amendment (Housing) 2023 (Housing Amendment SEPP) came into effect on 14 December 2023, consequently repealing State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

Relevant provisions relating to the design of residential flat development, and the application

of the Apartment Design Guide are now integrated into Chapter 4 – Design of Residential Apartment Development of State Environmental Planning Policy (Housing) 2021.

Chapter 4 – Design of Residential Apartment Development

145 Referral to Design Review Panel (DRP)

The proposal was considered by Councils Design Excellence Panel on 4 September 2025. The Panel did not support the proposed scheme and confirmed that design excellence had not been demonstrated.

147 Determination of development applications and modification applications for residential apartment development

The provisions of this section state that development consent must not be granted unless the consent authority has considered the following.

- *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- *the Apartment Design Guide,*
- *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

An assessment has been undertaken below.

Principle 1 – Context and Neighborhood Character

The Panel stated 'The site is located on a prominent Princes Highway north of the Rockdale Town Centre. It is highly constrained by numerous easements and heavily impacted by traffic noise from the east and rail noise to the west. A recently constructed mixed use building to its north and potential development to the north east makes mid Winter solar access very difficult without introducing significant privacy issues. In addition, compliance with cross ventilation is highly constrained due to the form of the building and its reliance on a single core.

While the U shaped building envelope and core location are an inevitable outcome of the site's size and shape (as well as other constraints), the approved scheme was not supported by the Panel and was only granted by the Land and Environment Court; notably, this was occurred prior to the gazetting of the current LEP. Since then, allowable building heights have been increased, but the current LEP also requires that "Design Excellence" standards must now be met.

As proposed, there are numerous urban design, built form and amenity issue across all floors. Therefore, it is the Panel's view that the current proposal cannot meet the requirements of Design Excellence without considerable changes being made to the entire building'.

Comment

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 2 – Built Form and Scale

The Panel stated "With the introduction of the National Construction Code (NCC), industry advice is that standard floor to floor heights have been increased to 3200mm (allowing some flexibility) or 3150mm as an absolute minimum. The proposed 3100mm floor to floor heights must therefore be increased to 3150mm. In addition, a credible vertical allowance is required

at roof level to accommodate insulation, waterproofing, paving and falls.

As a result of increased floor to floor heights and the raised terrace level, building height is liable to exceed the height plane and/or the requirements of SACL. This may lead to the removal of one floor (or part floor), or the incorporation of double height units at the top level to reduce the height of the elevator shaft.

Ground floor active uses are greatly constrained by flood levels and the extent of driveway/services, which restrict commercial activation to about 30% of the Fox Lane frontage. To address this issue, it is recommended that :

- Commercial entries redesigned to share one platform lift and coordinate with street facing landscape,*
- Building manager office and commercial storage be removed and/or relocated*
- Toilet provision compacted*
- Commercial space extended to residential lobby*
- Entry corridor straightened*
- Services compacted to create a more generous and comfortable residential lobby.*

Typical levels feature circulation corridors that open to a highly constrained light well, which will surely result in significant privacy impacts on adjacent balconies and windows.

Many of the units are odd shaped and feature snorkels, poorly resolved spaces (fins on balconies creating unusable spaces on balconies for example) and other poor outcomes. Some units are poorly planned, with insufficient area to meet typical furniture arrangements and kitchens that are patently too small to cater for the bedrooms proposed (see Unit 602 and below). Typical levels feature odd alignments along the west façade, which change plan form from floor to floor and appear to serve no purpose. To improve the design quality and internal amenity of the dwellings generally, all floor layouts should be completely revised to achieve :

- more consistency between levels*
- more regularly shaped units*
- a better correlation between unit size and living/dining and kitchen allowances*
- demonstrably higher internal and external amenity*
- demonstrably achieved visual and acoustic privacy*

Setback distances from light well boundaries appear to be as little as 3000mm, thereby impacting on the opening of windows, BCA compliance, light penetration and visual and acoustic privacy. Instead of providing a zero setback to the Telstra site, it would be better to decrease reliance on the compact light well by redesigning the proposal as an L shaped built form with a minimum 6m setback to its north.

The introduction of third elevator at level 09 appears wasteful and irrational. Given that typical floor to floor heights must be increased, a floor level is liable to be removed; failing that, the introduction of upper level duplexes may remove overrun height issues.

It is not clear how solar panels shown at roof level are being supported above dining tables."

Comment

The height, bulk and scale generated by the proposal in its current form is excessive. The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 3 – Density

The Panel stated “Given the many built form, amenity, privacy and compliance issues described above (including floor to floor height, restrictive light well and greatly constrained solar access), the site appears incapable of accommodating the density proposed.”

Comment

The proposal appears to be primarily driven by the applicant's objective of achieving a particular yield on the site. However, the design issues identified in this report indicate that the proposed density cannot be confidently accommodated without adverse impacts on amenity and overall design quality.

The assessing officer concurs with the Panel, consequently, the proposal is unsatisfactory in this regard.

Principle 4 - Sustainability

The Panel stated “Sustainability commitments are not clear at this stage; a significant and well considered provision of sustainability is required to meet the requirements of Design Excellence.

Apart from insufficient information to explain how solar panels are being supported, the quantity proposed appears inadequate. It is not explained how skylights can facilitate solar access and cross ventilation without resulting in significant privacy and security issues.

The proposal appears unable to achieve ADG solar and cross ventilation compliance without relying on an extremely compact light well that results in severe privacy impacts.”

Comment

Given that the Design Excellence provisions of BLEP 2021 apply to the site, a holistic sustainable design is required as part of the redevelopment of the site. Nil details or specifications regarding the proposed solar panels at rooftop level have been provided nor any clarification as to what they seek to service.

The proposal does not incorporate electric vehicle charging facilities, and issues relating to solar access and cross-ventilation are evident in the proposed residential units.

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 5 – Landscape

The Panel stated “The landscape design in this highly urban site is an important component of the livability of the proposal. As noted by the applicant, the rooftop has the potential to create a series of open spaces for the use and enjoyment of the residents and their guests.

The Panel questions the concept of an outdoor cinema that is subject to both the noise of the adjacent railway line and the Princes Highway. The provision of a screen within a community room may provide this amenity in a controlled environment for example.

The design of the rooftop requires further resolution to realise a series of opportunities for the residents. The proposal for a community room is encouraged and a series of passive recreation spaces. However, the resolution of the design is seen as wanting with arbitrary

planters, seating and tables “floating” in large areas of paving and a child play area that needs to be further refined for potential use. To understand the need of a play area for example a SWAT analysis of surrounding parks needs to be brought to the panel's attention in relation to the existing and perceived active recreation needs.

The public domain paving details and tree selection needs to be aligned with the current Council requirements.

The easement to the northern section of the site requires further design resolution with the potential of landscape and light sources to be investigated and safety at night addressed (CPTED guidelines applied)."

Comment

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 6 – Amenity

The Panel stated “As noted above;

- *Activation along both streets is highly constrained by required flood levels and poorly resolved platform lifts.*
- *An excessive provision of inactive uses and services along Fox Lane reduces activation*
- *The light well is highly constrained in size and greatly restricts the opening of windows without causing significant visual and acoustic privacy issues*
- *Typical layouts feature many poor internal and external outcomes and irregularities between levels; many units feature snorkel units and living, dining and/or kitchen that are too small for the number of bedrooms proposed”*

Comment

The proposal does not provide a suitable level of amenity for residential dwellings on site. The proposal does not adhere to minimum mid winter solar access requirements of the Apartment Design Guide, with 24 of 59 units (40.6%) achieving 2 hours solar access in midwinter between 9am – 3pm, in lieu of the minimum required 70% (42 of 59).

The proposal further incorporates inadequate floor to floor heights, adverse privacy impacts, irregular and poorly planned unit layouts and unresolved rooftop and public domain design. Additionally cross ventilation is constrained as a consequence of the proposed design and site constraints.

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 7 - Safety

The Panel stated “Restricted street activation reduces real and perceived safety, especially at night. Real and perceived is exacerbated by an apparently open undercroft.”

Comment

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 8 - Housing Diversity and Social Interaction

The Panel stated *“As noted above, the Panel is concerned that many apartments do not appear to include adequately sized living, dining and/or kitchen spaces for the number of bedrooms proposed. As noted above, improvements to the amenity of the communal terrace is required for it to adequately serve social interaction.”*

Comment

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

Principle 9 – Aesthetics

The Panel stated *“The Panel does not support the massing and expression of the building – which simply results from an extruding upwards of levels previously approved. Without any compositional intent, the proposed building appears lifeless and lacking in articulation, apart from excessively horizontal spandrels stacked upon each other.*

As noted above, to achieve Design Excellence, the entire built form and layout requires significant improvement. This should include a complete review of the expression and materiality of the building to achieve a legible, articulate and compelling architectural proposal.”

Comment

The assessing officer concurs with the Panel that these matters remain unresolved. Consequently, the proposal is considered unsatisfactory in this regard.

c. The Apartment Design Guide

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

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
3C – Public Domain Interface	Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface.	As previously approved ground floor level. Ramping / landscaping integrated as previously approved	Yes
	Mailboxes located in lobbies or integrated into front fence	Integrated into residential entry as previously approved	Yes
3D - Communal Open Space	25% (326.5sq/m) Site Area	337sq/m at rooftop	Yes
	50% (163.25sq/m) to receive 2 hours solar access in midwinter 9am - 3pm	2 hours solar achieved	Yes
3E - Deep Soil Zone	7% (91.4sq/m) site area Minimum Dimensions 3m	As previously approved 35.2sq/m in form of periphery planters along Princes Highway frontage of site.	No – no change from previous approval.

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
3F - Visual Privacy <i>Building Separation</i>	<u>Up to 25m (5-8 Storeys)</u> Hab. Rooms / Balconies = 18m Non Hab. Rooms = 9m	Level 8 – 3m to southern side boundary	No – Refer to discussion below
	<u>Over 25m (9 + Storeys)</u> Hab. Rooms / Balconies = 24m Non Hab. Rooms = 12m	Levels 9 / 10 – 3m to southern side boundary	
3G – Pedestrian Access & Entries	Multiple entries provided to activate street edge	Multiple entries provided	Yes
	Building access clearly visible from public domain	Access points clearly visible	Yes
	Steps / ramps integrated into building & landscape design	Steps / ramps integrated	Yes
	Electronic access to manage access	Electronic secure access to building.	Yes
3H – Vehicular Access	Car park access integrated with building façade & behind building line.	Car park and associated entry / access via Fox lane and to rear of site	Yes
	Garbage collection, loading & servicing areas screened	On site waste collection	Yes
	Pedestrian / vehicle access separated & distinguishable.	Distinguishable access points.	Yes
3J - Bicycle & Car Parking	As per Council DCP.	Car parking sufficient / surplus. Insufficient bicycle & motorcycle	No – Refer to discussion below
4A – Solar & Daylight Access	Living rooms + POS of at least 70% (42 of 59) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter	40.6% (24 of 59)	No – Refer to discussion below
	Max 15% (9 of 59) apartments receive no direct sunlight b/w 9am & 3pm mid-winter	13.5% (8 of 59)	Yes
4B – Natural Ventilation	Min 60% (36 of 59) of apartments naturally cross ventilated in the first 9 storeys	50.8% (30 of 59)	No – Refer to discussion below
4C – Ceiling Heights	<u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m	3.1m residential floor to floor does not facilitate 2.7m habitable floor to ceiling level 2.4m non habitable achieved.	Partial – Refer to discussion
4D – Apartment Size & Layout	Studio – 35sq/m	45sq/m	Yes
	1 bed – 50sqm	51sq/m	Yes
	2 bed+ 2 bath – 75sqm	75sq/m – 103sq/m	Yes
	3 bed + 2 bath - 95sqm	100sq/m – 132sq/m	Yes
4E – Private Open Space & Balconies.	Studio – 4sq/m	6sq/m	Yes
	1 bed – 8sqm 2m min depth	8sq/m	Yes
	2 bed – 10sqm / 2m min depth	9sq/m (As previously approved to units 104 / 205 / 305 / 404 / 504 / 603) >10sq/m to other 2 bedroom dwellings	Yes

SECTION	DESIGN CRITERIA	COMMENTS	COMPLIES
	3 bed – 12sqm / 2.4m min depth	12sq/m minimum	Yes
4F – Common Circulation & Spaces	Max apartments off a circulation core on a single level is eight.	6-7	Yes
4G – Storage <i>50% is located within unit</i>	1 bed - 6 cubic metres 2 bed - 8 cubic metres 3 bed - 10 cubic metres	Provided internally	Yes
4K – Apartment Mix	Variety of apartment types provided & flexible apartment configurations to support diverse household types and stages of life	Variety provided	Yes
	Larger apartment types located on ground / roof level where there is potential for more open space & corners where more building frontage is available	Larger units at corners	Yes

ADG Non-Compliances

3F - Visual Privacy

The ADG specifies design criteria for building separation, which is measured to the balcony edge rather than the glass line of a development. The proposal seeks to add three additional residential levels (Levels 8, 9, and 10) and a rooftop level (Level 11) above the previously approved building footprint.

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

In accordance with the above criteria and noting that the site immediately to the south at 407 / 407A / 409 Princes Highway has not yet been developed to its full potential, appropriate building separation must be provided. This is necessary both to ensure the southern site can be reasonably developed and to maximize visual and acoustic privacy between the proposal and potential future development on the southern lots.

Requirement	Proposed	Complies
Level 8 (9m habitable rooms / balconies) (4.5m non habitable rooms)	Habitable rooms / windows setback 3m from southern side boundary	No - 6m shortfall
Levels 9 & 10 (12m habitable rooms / balconies) (6m non habitable rooms)	Habitable rooms / windows setback 3m from southern side boundary	No - 9m shortfall

As demonstrated in the table above, the proposal does not meet the nominated ADG building separation criteria, and the required setbacks have not been provided.

Given the narrow width of Fox Lane to the south (approximately 6m), the context of the southern lots, and DCP requirements envisioning their amalgamation and a four storey street wall setback 3m from the northern boundary to Fox Lane, it is prudent to ensure compliance with ADG building separation standards. This will safeguard the redevelopment potential of the southern properties and ensure suitable amenity for future occupants of the proposed development.

Should the southern lots be redeveloped with habitable rooms / balconies facing north toward Fox Lane and a 3m setback to the lane frontage, measured from the lane's centerline the proposal indicates a;

- 6m building separation at Level 8 to the centerline of the lane, this is non compliant with the required 9m separation and subsequent overall 18m sought to be achieved when both sites are redeveloped at level 8.
- 6m building separation at Levels 9 and 10 to the centerline of the lane, this is non compliant with the required 12m separation and subsequent overall 24m sought to be achieved when both sites are redeveloped at levels 9/10.

The building separation thus proposed for the additional levels sought is unsatisfactory with respect of the objectives and design criteria of this Part.

3J – Bicycle and Car Parking

As per the requirements of Bayside DCP 2022 an assessment is provided below.

<u>Requirement</u>	<u>Proposed</u>	<u>Complies</u>
Bicycle 68 spaces	11	No – Shortfall of 57
Motorcycle 6 spaces	4	No – Shortfall of 2

The proposal is unsatisfactory in this regard.

4A Solar & Daylight Access

The provisions of Part 4A require that the living rooms and private open spaces of at least 70% (42 of 59) of units within the development receive a minimum of two hours of direct sunlight between 9:00 am and 3:00 pm during midwinter. An assessment of the current proposal indicates that only 40.6% (24 of 59) of units achieve this level of solar access.

The applicant has requested that consideration be given to extending the assessment period to 3:15pm in midwinter, arguing that this would allow the development to meet the minimum 70% requirement. The applicant states:

“We have run this assessment two ways – one through to 3:00 pm (per the ADG criteria) and one that extends beyond 3:00 pm, per previous LEC discussions. This was due to the orientation of the site and the unobstructed views to the west beyond the rail, which afford potential additional solar access.

Extending the assessment period beyond 3:00 pm results in 64.5% of units achieving two hours or more of solar access to living rooms and private open spaces. This represents 38 of 59 units, a shortfall of four units from ADG solar compliance. This deviation is primarily the

result of 395 Princes Highway to the north, which did not exist at the time of the original DA submission.”

The assessing officer notes that no supporting information regarding the referenced ‘*LEC discussions*’ was provided.

The proposal must be assessed against the relevant requirements of the Apartment Design Guide, as mandated by the State Environmental Planning Policy (Housing) 2021. Assessment under the ADG confirms that the development does not meet the 70% solar access requirement during midwinter. Even based on the applicant’s extended assessment to 3:15pm, non-compliance remains.

Whilst the non compliance may be due to the existing 11 storey building upon 395 Princes Highway to the north, its presence must be taken into account in this assessment. This demonstrates that, in its current context, the proposed development cannot achieve the minimum required solar access and is therefore inappropriate.

Given that Design Excellence provisions apply to the site and that the solar access requirements cannot be fully achieved, the proposal is considered unsatisfactory in this respect.

Further to the above, the ADG seeks to maximise direct sunlight to living rooms and private open space, where a minimum of 1m² of direct sunlight, measured at 1m above floor level, must be achieved for at least 15 minutes in midwinter as per the diagram below.



Figure 4A.2 Shading devices on balconies should shade summer sun and allow winter sun access to living areas

The assessing officer sought additional information from the applicant in order to clarify compliance with Figure 4A.2 above and further ensure that adequate solar access is achieved within habitable rooms, rather than simply reaching the glazing.

In response, the Applicant provided a solar compliance analysis from 9am – 4.30pm in midwinter. The information provided did not depict solar penetration of sun at 15 minute intervals to all units in midwinter and thus it cannot be concluded that the proposal satisfies the objectives or design criteria of this part.

4B – Natural Ventilation

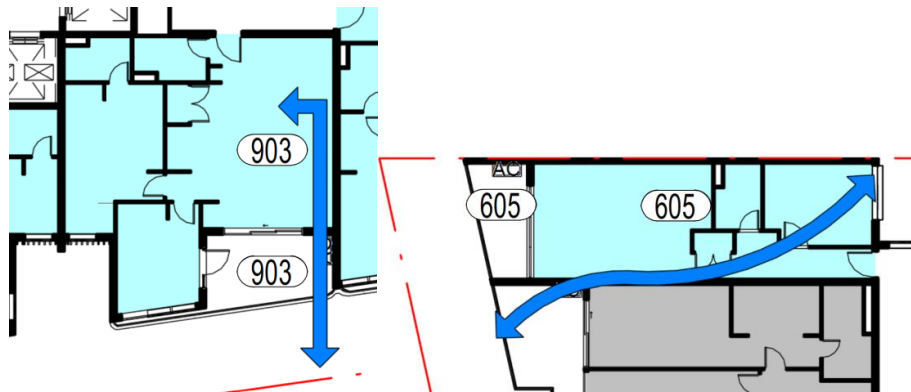
DA-601 Rev A, submitted with the application, is a cross ventilation plan. The drawing indicates that 38 of 59 (64%) dwellings receive cross ventilation and includes corresponding diagrams to support this figure.

Upon assessment, the assessing officer notes that only 30 of the 59 dwellings appear to achieve cross ventilation, based on their layout, orientation, and associated external openings. In particular, units 106, 208, 308, 407, 506, 605, 903, and 905 are not considered to achieve cross ventilation as suggested by the applicant.

An excerpt illustrating these units is provided below. It shows, for example, that unit 903 is

a single aspect, south facing apartment that cannot achieve cross ventilation, while unit 605 is a west facing, single aspect apartment where the arrow indicating cross ventilation appears to penetrate the common party wall of the adjoining unit. Accordingly, these units are not capable of natural cross ventilation and cannot be included in the minimum calculations.

On this basis, the proposal provides cross ventilation to 30 of 59 units, equivalent to 50.8%, which does not comply with the minimum requirements of the Apartment Design Guide.



4C – Ceiling Height

The design criteria in this part require a minimum floor to ceiling height of 2.7m for habitable rooms.

With the introduction of the National Construction Code (NCC), industry advice indicates that standard floor to floor heights have increased to 3.2 m (allowing some flexibility) or 3.15m at an absolute minimum. This ensures a 2.7m floor to ceiling height can be achieved in habitable rooms while accommodating necessary building services.

The original development application was lodged and determined on the basis of a 3.1m floor to floor height, which was sufficient at the time to meet the requirement. However, since that approval, the NCC has been updated and now requires a minimum of 3.2m floor to floor to achieve the 2.7m ceiling height for habitable rooms.

Accordingly, the proposed 3.1m floor to floor height must be increased to at least 3.15m to deliver compliance. While this adjustment would ensure habitable rooms achieve the required 2.7m ceiling height, it would also increase the overall building height, with consequential impacts arising.

In its current form, the proposal does not comply with the objectives and design criteria of this part.

State Environmental Planning Policy (Transport and Infrastructure) 2021

2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to 2.48 of the SEPP as the proposed works are within the vicinity of electricity infrastructure and therefore, in accordance with Clause 2.48(2), the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is

given. The application was referred to Ausgrid for comment, no objections were raised by Ausgrid. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

2.98 - Development adjacent to rail corridors

The site is directly adjacent to the T4 Eastern Suburbs & Illawarra Line directly to the west / rear of the site.

The proposal was referred to Sydney Trains. On 28 July 2025, Council was advised that TfNSW, via Instrument of Delegation from the Secretary of Transport and from TAM (Transport Asset Manager of NSW), had been delegated to act as the rail authority for the heavy rail corridor, and electrical supply authority and to subsequently review and provide feedback on the subject application.

The proposal was reviewed in accordance with Transport for NSW Assets Standard Authority standards and Sydney Trains requirements and conditions of consent were recommended for imposition should the proposal be supported for approval. The proposal is satisfactory in this regard.

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

Consent exists for the approved basement footprint and depth, the current application is an amending DA which proposes internal modifications to the approved basement levels. No further excavation is proposed on site as part of this amending DA. The footprint and depth of excavation remain consistent with the previous approval, the proposal is satisfactory in this regard.

2.100 - Impact of rail noise or vibration on non-rail development

As the site is directly adjacent to the T4 Eastern Suburbs & Illawarra Line directly to the west / rear of the site the consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

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

The application was accompanied by an acoustic report prepared by Acoustic Logic dated 12/05/2025 which confirms in Part 1 – Introduction *“This report has been prepared for the sole purpose of a s4.55 development application assessment and should not be used or relied on for any other purpose”*. The aforementioned is inconsistent with the nature of the application submitted.

Notwithstanding the above, the acoustic report references the plans submitted with the subject application and concludes that the requirements of this part and the BCA can be achieved and appropriate residential amenity provided, subject to adherence to the recommendations made within the aforementioned report. Such recommendations include insulation to the walls, glazing and ceiling / roof of the development. The proposal is acceptable therefore with regards to Clause 2.100 of the SEPP.

2.119 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road (i.e. Princes Highway). In this regard, Clause 2.119 - Development with frontage to a classified road of the SEPP must be considered before consent can be granted. The proposed

development involves access to and from the site via a previously approved driveway location from Fox Lane to the south, as secondary road access and is satisfactory in this regard.

The proposal satisfies Clause 2.119, noting the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of the design of the vehicular access, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land.

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

The proposed development is adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Clause 2.120 of the SEPP is required to be considered as part of this assessment.

For residential accommodation, the consent authority must not grant consent unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- a. *in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am,*
- b. *anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

The application was accompanied by an acoustic report prepared by Acoustic Logic dated 12/05/2025 which confirms in Part 1 – Introduction “*This report has been prepared for the sole purpose of a s4.55 development application assessment and should not be used or relied on for any other purpose*”. The aforementioned is inconsistent with the nature of the application submitted.

Notwithstanding the above, the acoustic report references the plans submitted with the subject application and concludes that the requirements of this part and the BCA can be achieved and appropriate residential amenity provided, subject to adherence to the recommendations made within the aforementioned report. Such recommendations include insulation to the walls, glazing and ceiling / roof of the development. The proposal is therefore acceptable with regards to Clause 2.120 of the SEPP.

2.122 – Traffic Generating Development

The proposal is identified as a traffic generating development under Schedule 3 of the SEPP as the development comprises in excess of 50 car parking spaces and is on a site that connects within 90m to a classified road. The application was referred to TfNSW who raised no objection to the proposed development. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

The provisions of Chapter 4 of the SEPP have been considered in the assessment of this amending development application. Section 4.6 of the SEPP requires Council to be satisfied that the site is, or can be made, suitable for its intended use at the time of determination. As previously outlined, the footprint and depth of excavation remain consistent with the previous approval, and this application does not seek any additional excavation. It is understood that the site has also remained vacant since the granting of the previous consent.

As this is an amending DA, the application must be reconsidered in its entirety, including whether the previously approved basement footprint and depth of excavation remain appropriate. This requires sufficient information to demonstrate that the site is suitable, or can be made suitable, for the proposed use. In the absence of such information accompanying this current application, Council cannot be satisfied that the provisions of the SEPP have been met.

Bayside Local Environmental Plan 2021

The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 ("the LEP") applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
1.2 Aims of the Plan	No see discussion	-
2.3 Zone and Objectives MU1 – Mixed Use	Yes see discussion	-
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	No see discussion	No see discussion
4.6 Exceptions to development standards	No see discussion	No see discussion
5.21 Flood planning	Yes – As previously approved	Yes – As previously approved
6.1 Acid Sulfate Soil	Yes – As previously approved	Yes – As previously approved
6.2 Earthworks	Yes – As previously approved	Yes – As previously approved
6.3 Stormwater and water sensitive urban design	Yes see discussion	Yes see discussion
6.7 Airspace Operations	No see discussion	No see discussion
6.8 Development in areas subject to aircraft noise	Yes see discussion	Yes see discussion
6.10 Design Excellence	No see discussion	No see discussion
6.11 Essential services	Yes see discussion	Yes see discussion

1.2 - Aims of the Plan

While not a mandatory consideration for DAs, Clause 1.2 of the LEP does illustrate the strategic intent of the LEP and its provisions, and is considered relevant to the assessment of this application. Clause 1.2 of the LEP Plan includes a range of aims, namely:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to protect, conserve and enhance Aboriginal cultural heritage and the environmental, cultural, scenic, built and landscape heritage of Bayside,*

- (b) to provide high quality open space areas and recreational facilities,
- (c) to reduce community risk and improve resilience to, and from, urban and natural hazards,
- (d) to encourage sustainable economic growth and development in Bayside,
- (e) to create a liveable urban place through the application of design excellence in all elements of the built environment and public domain,
- (f) to encourage diversity in housing to meet the needs of, and enhance amenity for, Bayside residents,
- (g) to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,
- (h) to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,
- (i) to enhance and protect the functions and roles of the international trade gateways of Sydney Airport and Port Botany,
- (j) to increase urban tree canopy cover and enable the protection and enhancement of green corridor connections,
- (k) to promote and enhance the amenity of Botany Bay's foreshores and Bayside's waterways.

The proposal is inconsistent with these general aims, specifically (e) with respect of design excellence within the built environment and (h) appropriate incorporation of ESD principles on site. The proposal is unsatisfactory in this regard.

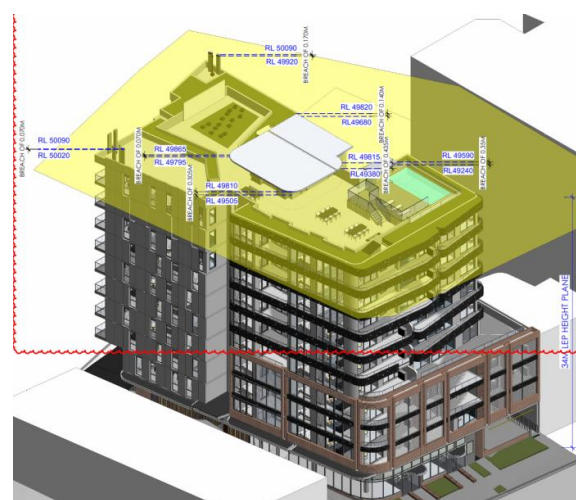
2.3 - Zone

The subject site is zoned MU1 – Mixed Use under the provisions of the LEP. The proposal is defined as 'commercial premises' and 'residential flat building' which are both permissible with consent. The proposed development satisfies the objectives of the zone.

4.3 - Height of Buildings

A maximum height standard of 34 metres applies to the subject site. The proposal has a maximum height and corresponding height breach as follows;

- 34.17m to top of telecommunication utilities (0.17m breach)
- 34.35m to top of plant room adjoining pool (0.35m breach)
- 34.435m to top of communal lobby (0.435m breach)



The applicant has submitted a 4.6 – Exceptions to Development Standards, an assessment has been undertaken below.

4.6 - Exceptions to Development Standards

Section 4.6 of the LEP allows a contravention to a development standard subject to a written request by the applicant justifying the contravention 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 contravention.

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 contravene the 34m height of building development standard by 0.17m to 0.435m which equates to a 0.5% to 1.27% contravention to the height of building standard. A contravention request in accordance with clause 4.6 of the LEP, seeking to justify the proposed contravention, has been prepared by BMA Urban and accompanies the amending DA.

In *Wehbe v Pittwater Council*, Preston CJ identified five ways in which an application could demonstrate that the application of a development standard was unreasonable or unnecessary, these 5 ways were not exhaustive and only one is required to be established.

The applicant seeks to argue that the proposal adheres to the first method established in the aforementioned judgement, being that the objectives of the Height of Building standard which are outlined as follows are achieved.

- (a) *to ensure that building height is consistent with the desired future character of an area,*
- (b) *to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,*
- (c) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

The applicant's 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case there are sufficient environmental planning grounds to support the non-compliant building height. These components are summarised below, with the assessing officer's response provided.

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

Applicant Comments/Arguments (summarised)

1. *The underlying purpose of this objective is to ensure that any future development is designed in a manner whereby any resulting building height will appropriately respond to both the existing and future context in a controlled manner. The proposal demonstrates that the building will visually adapt with that of neighbouring buildings both current and future and that the resulting height breach has been appropriately sited and or integrated into the built form envelope, reducing its visual prominence from both neighbouring properties and the public domain.*

A height compliant development would also not be capable of accommodating a well serviced area of communal open space across the roof of the building alongside telecommunication infrastructure without it adversely and unjustly impeding upon envisaged residential yield and density.

It is also worth noting that the scale of this development afforded by way of this breach, will facilitate the provision of a built form that is deemed to be more in keeping with the desired future character of the area over that likely to arise out of a wholly compliant scheme.

It is therefore our opinion that the siting, scale and relationship the breaching elements will have with neighbouring properties and the public domain/s, the development is not inconsistent with that anticipated to result by way of a compliant scheme.

The scale, nature and aspect of the site and in turn breach, enable the proposed building to visually integrate with that of neighbouring building's both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.

2. *The height breaching elements/components of the building are of a siting, scale and aspect where they will not identify as visually dominant nor jarring to the contextual character. The materiality and overall tone of the breaching component is such that it will present as a visually recessive part of the building that will not adversely contribute to visual bulk but rather, present as a subtle and informed contribution to the composition of the development. It is also pertinent to note that the height breaching elements will not result in an unreasonable level of impact to the extent of available views across the development with respect to distant Sydney CBD and Botany Bay views.*

In order to determine the extent of additional shadowing likely to be incurred by the part/s of the building that breach the prescribed height, Place have prepared a shadow analysis that forms part of the architectural plan detailed set. This analysis demonstrates the extent of additional impact upon neighbouring properties and the public domain is minimal and will not adversely alter overall solar access outcomes.

With respect to privacy, the breaching element/s of the building, will not result in any discernible impacts to the extent of privacy afforded to neighbouring properties and or future residents alike.

3. *The height breaching elements do not adversely influence the development's ability in responding to the transitional interface and setting noting the evolving character. Having regard to the transitioning contextual character and the anticipated building heights/scales across neighbouring properties once redeveloped, the building height breach maintains an orderly and more responsive contextual outcome, and therefore, the proposal continues to align with this objective despite the height variation.*

Officer Comment

The assessing officer does not concur with the applicant's justification. The proposed height breach is not justified as the objectives of the control can be achieved through a compliant scheme.

Arguments that additional height is necessary for communal space or services provision are not concurred with, as such services and communal open space can be provided at a lower level and within the prescribed height of building standard. Delivering a compliant built form would require the partial removal of additional residential yield proposed, which may not be desirable to the applicant.

The breach results in additional bulk and scale that could be relocated within the prescribed height of building standard and thus fails to minimise the visual impact of the development. Accordingly, the proposal is not consistent with the desired future character of the Rockdale Town Centre, nor does it provide the appropriate transition in built form or land use intensity required by the objectives of the standard.

The assessing officer is of the position that the height of building standard is reasonable and necessary in the circumstances of this case.

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

Applicant Comments/Arguments (summarised)

- *The proposal (notwithstanding the LEP contravention), is consistent with the objectives of the development standard as provided in clause 4.3 of the BLEP 2021.*
- *The shadow diagrams that form part of this variation request demonstrate that the area of height variation will not result in an unreasonable increase to the extent of overshadowing impact on either neighbouring properties or public domain.*
- *The perception of building height, most notably where it breaches the standard, has been formed in a manner that continues to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At high level, the proposed building successfully mitigates environmental impacts such as overshadowing and visual impact.*
- *The rooftop elements which breach the height, service a large accessible communal open space sited away from the building edges. In this location, they will remain appropriately integrated into the built form envelope and will not present as features that contribute to the extent of perceivable building bulk. Insistence on compliance with the height control would result in the removal of a number of rooftop elements servicing the COS, which is a disproportionate response to the relatively minor impacts created by these elements.*
- *The infrastructure which breaches the height, provides for a direct community benefit in terms of servicing the telecommunication needs of the community both local and broader.*

Officer Comment

The proposed development does not demonstrate or represent an appropriate design outcome for the site, which is constrained by its orientation, location, and context. The proposal, including the breach of the height of buildings standard, fails to adequately respond to these constraints. Several issues remain unresolved, particularly in relation to the overall built form

and design, including the proposed height non compliance.

The proposal is excessive in height, particularly given Sydney Airport's lack of concurrence and confirmation that the development would penetrate the Obstacle Limitation Surface (OLS) and PANS-OPS surfaces by up to 0.79m.

The OLS and PANS-OPS are critical safety controls established to protect the airspace required for aircraft operations, ensuring safe take off, landing, and instrument flight procedures. Any penetration of these surfaces is considered unacceptable, as it creates potential aviation safety risks, may restrict or alter airport operations, and undermines the conservative safety margins built into these regulatory frameworks. Even a minor exceedance such as 0.79m compromises the integrity of these protections and therefore cannot be supported.

Given the above, there are insufficient environmental planning grounds identified in the applicants 4.6 - Exception to Development Standards, which warrant support for a variation to the building height standard. The proposed height variation is unacceptable in this regard.

5.21 – Flood Planning

Previously approved ground floor levels are retained in the current proposal. The proposal has been reviewed by Councils Engineer who confirmed that the development adheres to the requirements of this clause and is satisfactory in this regard.

6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 meters of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

6.3 – Stormwater and WSUD

The proposal was accompanied by stormwater plans which were primarily akin to those previously approved, with the exception of minor changes as follows;

- Minor change to the location of the OSD tank on site within the ground floor level of the development.
- Emergency overflow redirected through to the outdoor seating area.

The proposal was reviewed by Councils Development Engineer who confirmed the above changes to the previously approved stormwater plans were satisfactory and the proposal is acceptable in this regard.

6.7 - Airspace Operations

The subject site is located within Sydney Airport's Obstacle Limitation Surface and PANS-OPS surfaces, which at this location have a height of 49.3AHD. The proposal reaches 50.09RL to the top of the Telstra infrastructure on the rooftop and 49.865RL to the top of the proposed lift overrun. The proposal was referred to Sydney Airport, who does not support the proposal. The proposal is thus unsatisfactory with respect of this clause.

6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 25 to 30 ANEF Contour, thus subject to potential adverse aircraft noise. Given this, appropriate noise attenuation measures are required for the proposed development.

The proposal was accompanied by an Acoustic Report prepared Acoustic Logic dated 12/05/2025 which concludes that the requirements of this part and the BCA can be achieved and appropriate residential amenity provided, subject to adherence to the recommendations made

within the aforementioned report. Such recommendations include insulation to the walls, glazing and ceiling / roof of the development. The proposal is acceptable in this regard.

6.10 – Design Excellence

In accordance with this clause, development consent must not be granted unless the consent authority is satisfied that the proposal demonstrates design excellence. The clause requires that development deliver the highest standard of architectural, urban, and landscape design. Clause 6.10(4) sets out the matters to be considered in determining whether a proposal achieves design excellence, which have been addressed holistically within this report.

The proposed development is not considered to demonstrate, nor represent, a design excellence outcome for the site. The site is significantly constrained by its size, dimensions, and context, and the proposal fails to resolve these constraints.

The Design Excellence Panel has identified numerous unresolved issues relating to urban design, built form, and residential amenity across all levels of the scheme. Collectively, these issues demonstrate that the development does not appropriately respond to its context, is incapable of compliance with key planning provisions, and constitutes an overdevelopment of the site.

A significant redesign and more holistic approach are required. Simply adding additional levels while disregarding contextual considerations, site constraints, and key ADG provisions, such as midwinter solar access and building separation, cannot achieve design excellence. Accordingly, the proposal is unsatisfactory with respect to this clause.

6.11 – Essential Services

Services are generally available on site to facilitate to the proposed development. 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.

S4.15(1)(a)(ii) - Provisions of 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

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

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application.

Bayside Development Control Plan 2022

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
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.2 Design Excellence	No – Refer to 6.10 Design Excellence	No – Refer to 6.10 Design Excellence
3.5 Transport, Parking and Access	No – Refer to discussion in 3J – Bicycle and Car Parking	No – Refer to discussion in 3J – Bicycle and Car Parking
3.6 Social Amenity, Accessibility and Adaptable Design	No - see discussion below	No - see discussion below
3.9 Stormwater Management and WSUD	Yes – Refer to discussion in 6.3 – Stormwater and WSUD	Yes – Refer to discussion in 6.3 – Stormwater and WSUD
3.10 Flood Prone Land	Yes – Refer to discussion in 5.21 – Flood Planning	Yes – Refer to discussion in 5.21 – Flood Planning
3.12 Waste Minimisation and Site Facilities	No - see discussion below	No - see discussion below
3.13 Areas subject to Aircraft Noise and Airport airspace	No see discussion	No see discussion
3.14 Noise, Wind, Vibration and Air Quality	Yes see discussion	Yes see discussion
3.18 Utilities and Mechanical Plant	Yes - see discussion below	Yes - see discussion below
PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS		
5.1.4 Quality of Design, Choice and Diversity	Yes - see discussion	Yes - see discussion
PART 7 – SPECIFIC PLACES		
7.2 Rockdale Town Centre	No - see discussion	No - see discussion

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 7.2 – Rockdale Town Centre

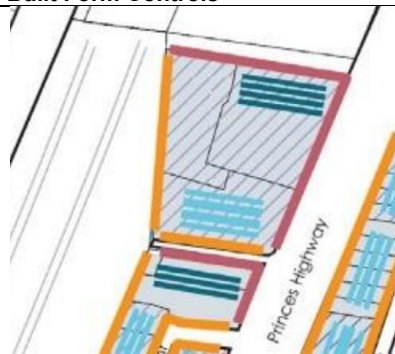
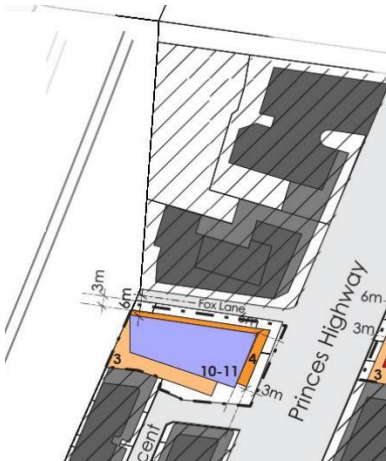
This section of the DCP provides controls and guidelines for 17 areas within the Local Government Area. Not all areas are included. The areas chosen are either unique or have been subject to detailed master planning controls, with more specific controls to guide development.

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, within special character area A and an

assessment of the relevant DCP provisions has been undertaken below.

It is deemed that the proposal is inconsistent with regards to the below objectives and controls within Part 7.2 – Rockdale Town Centre of DCP 2022, given discussions previously within this report in State Environmental Planning Policy (Housing) 2021.

Part 7.2.5.2 – Built Form Building Massing, Height and Articulation	
Objective	Control
06 - To ensure building massing distribution optimises design quality outcomes and does not prevent other sites from achieving quality redevelopment.	C5 - Floor to ceiling heights and spacing of built forms are to be consistent with the objectives of the ADG.
09 - To minimise overshadowing on surrounding development and public domain and minimise privacy issues between residential buildings.	C10 - Within each development, towers, podiums and private open space are to be sited so that adjoining sites retain development potential and amenity.
010 – To enhance energy efficiency and increase daylight within buildings.	
Street Wall Heights / Area A - Built Form Controls	
Height Strategy Street walls: Predominant height along frontage* 1-2 storeys 3 storeys 4 storeys 6 storeys Towers: Height, orientation, massing distribution 11+ storeys (up to Bayside LEP HOB) 10-11 storeys 9 storeys or less, upper floor must be set back	 As observable above and adjacent, DCP controls applicable to the site directly to the south identify a potential 11+ storey building with 4 storey street walls to Fox Lane and Princes Highway. In contrast the diagram identifies a 9 storey building with upper floors setback for the subject site. The proposal at 11 storeys is inconsistent with the envisaged future desired character for the site.
	

PART 3 – GENERAL DEVELOPMENT CONTROLS

3.5 – Transport, Parking and Access

The design and location of car parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site and the proposal.

As previously stated in 3J – Bicycle and Car parking, the proposal complies with the required number of car parking spaces for the development yet indicates a deficiency with respect of motorbike and bicycle spaces. The proposal is unsatisfactory in this regard.

3.6 – Social Amenity, Accessibility and Adaptable Design

As per the requirements of this clause a minimum of 10% (6) of residential units within the development are required to be provided as adaptable units. The proposal indicates the provision of 5 accessible dwellings (Units - 101 / 102 / 303 / 402 / 601) within the development and does not comply with the requirements of this part.

Notwithstanding the above, equitable access is provided to, within and throughout the development including basement car parking levels, ground level and communal open space areas allowing equitable access for persons with a disability / mobility impairment. Accessible car parking spaces are also provided.

An Access Report prepared by Eastcoast Accessibility Pty Ltd dated 12/05/2025 was submitted with the application which confirms that the proposal is capable of compliance with the relevant requirements of the Access to Premises Standards, Building Code of Australia and AS4299 – Adaptable Housing.

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.

3.10 – Flood Prone Land

An assessment against flood management has been discussed in response to Clause 5.21 of the LEP, in the previous Section of this report.

3.12 – Waste Minimisation and Management

As previously approved the development incorporated the use of a mini loader for waste collection, with a headroom clearance of 2.1m.

Given the increase in the number of residential dwellings on site, in accordance with the provisions of this part, the development is now required to accommodate a medium rigid vehicle (MRV) for waste collection on site, with a head height clearance of 4.5m provided to the required loading dock.

The proposal does not comply with the aforementioned and seeks to retain the use of the previously approved mini loader arrangement and loading dock with 2.1m head height clearance. This is unsatisfactory.

Further to the above Councils Development Engineer has noted the following issues which remain outstanding;

- a) A driveway profile is required by a qualified Civil Engineer as the grades do not comply with AS2890.2 for an MRV.
- b) The Loading Bay entrance headroom clearance is 2.25m, which does not allow for an MRV or the Council waste truck vehicle to enter the loading bay.

- c) For a standard MRV, AS28901.2 states that the minimum width for the service bay shall be 8.8m long x 3.5m wide, with a minimum head clearance of 4.5m. The loading bay is undersized.

An assessment by Councils Waste Management Officer has identified the following deficiencies. It is noted that waste is proposed to be collected twice weekly.

1. The general waste storage room at ground level is 28sq/m in area and limited to accommodating 7 x 1,100L waste bins.

The development requires 7 x 1,100L waste and a further 7 x 1,100L recycling bins, in addition to 1 x 1,100L bin to remain in place under the chute on service days, equating to a total of 15 x 1,100L bins for the development, which cannot be accommodated in the 28sq/m waste room at ground level as proposed.

2. The applicant will need to allow for storage of additional 240L recycling bins to be swapped with those placed on every floor when full. It is unclear where such storage is provided within the development.
3. The Applicant's estimated rate of 24 L of Food Organics Garden Organics (FOGO) per dwelling per week does not comply with Council's requirements, which specify an estimated generation rate of 120 L per dwelling per week.

Accordingly, the Applicant's total estimate of 1,416 L for this development is significantly underestimated. The realistic total generation is approximately 7,080 L, resulting in insufficient FOGO capacity and inadequate on-site storage for FOGO bins (19.5 m² required versus the 7 m² proposed)

4. The minimum total bin storage area required for general waste, co-mingled recycling, and FOGO is 47.64sq/m, not the 35sq/m proposed. This calculation does not account for additional bins that must remain on site during waste collection or for the decanting of recycling bins.

Given the above the proposal is unsatisfactory with respect of this part.

3.13 – Development in areas subject to Aircraft Noise and Sydney Airport Operations

Refer to previous discussions in Clause 6.7 – Airspace Operations and 6.8 - Development in areas subject to aircraft noise.

3.14 - Noise, Wind, Vibration and Air Quality

The proposal was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 16 May 2025. The report noted that the most critical gust wind speeds are anticipated in the following open areas of the development.

- East facing balconies levels 1 – 9
- West facing balconies levels 1 – 9
- Communal area at level 10.

These open areas will be affected by westerly, north-westerly and south-westerly winds and subsequently the Annual Limiting Gust Wind Speed will exceed the Open Area outdoor sitting criteria of 10m/s.

Wind mitigation measures recommended for the above affected open areas include the following:

- Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings;
- Pergolas, canopies and awnings over open areas; and
- Landscaping such as dense shrubs and trees.
- Canopy or pergola on the roof terrace.

Should the above be implemented on site, the proposal is satisfactory with respect of wind amelioration.

Noise considerations related to road and rail noise have been addressed previously in response to *SEPP (Transport and Infrastructure) 2021*. Acoustic considerations to and from the proposed use are acceptable in the context of the objectives and provisions of the DCP.

3.18 - Utilities and Mechanical Plant

Appropriate site facilities are provided as part of the proposed development.

PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS

5.1.4 - Quality of Design and Housing Choice and Diversity

As the proposal contains more than 20 units, the DCP contains provisions related to unit mix, as per the below. The proposal complies this the relevant requirement of this part.

Requirement	Proposal	Complies
Studio 5% (3) - 10% (6)	3 x studio	Yes
1 bedroom 10% (6) – 30% (18)	6 x 1 bed	Yes
2 bedroom 40% (24) – 75% (45)	32 x 2 bed	Yes
3 bedroom 10% (6) – 100% (59)	18 x 3 bed	Yes

S4.15(1)(a)(iii) - Provisions 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

There is no planning agreement applicable to the proposal.

S4.15(1)(a)(iv) - Provisions of the Regulation

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

S4.15(1)(b) - Likely Impacts of Development

The likely impacts of the proposal have been discussed previously within this report.

S4.15(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. As previously demonstrated in discussions above, the site is not suitable for the proposed development.

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

Public Submissions

The development has been notified in accordance with Councils Community Participation Plan from 16 July to 15 August 2025. A total of nine (9) submissions in a pro forma format were

received, issues have been summarized and addressed below.

Unsympathetic design within context / No photomontage submitted

Comment: The design of the proposal has been discussed previously within this report and it is reiterated that the design is not supported by Councils Design Excellence Panel. It is noted that a photomontage was provided with the application.

Overshadowing impact to units within 376 Princes Highway

Comment: The proposed development results in additional midwinter shadow from 3pm onwards. Nil shadow is cast on the objectors property prior to this time in midwinter. The proposal is satisfactory in this regard.

View loss (trees / sky) impact to units within 376 Princes Highway

Comment: There are no significant views to the west or south west of the objector's property, as the site directly adjoins the railway corridor. The objector's concern appears to relate to the proposed additional height, which they consider would further obscure the existing skyline and the trees located within railway land to the rear of the site.

It is noted, however, that the outlook towards the railway line, associated trees, and skyline to the west and south west is already substantially obscured by the existing approved development on the site.



View south west from objectors property at ground floor level

Stress on existing infrastructure

Comment: Existing services i.e. water, electricity, sewerage are available and can be provided to accommodate the subject site and proposed development, this has been confirmed by relevant utility providers.

Adverse acoustic impact

Comment: The proposal seeks to provide 19 additional residential dwellings on site. The noise impact associated with the proposal is not considered to be likely to result in adverse acoustic impacts otherwise likely to occur within a high density residential area, specifically noting the nature of the proposed use and context of the site below the flight path and adjoining a classified road and railway line.

Adverse traffic impact given narrow fox lane / Lane already heavily congested with delivery trucks

Comment: Fox Lane is a local road within the Rockdale Town Centre. A minor increase in traffic generation is likely given the proposed additional 19 units however this was reviewed by Councils Development Engineer who did not consider it likely that adverse impacts will arise as a result.

Dust impact during construction

Comment: Should the proposal have been supported for approval, conditions of consent could be imposed to ensure appropriate measures are implemented on site during construction to mitigate adverse impact of dust during works.

Referral Comments

A summary of comments from other agencies or from other Departments within Council is below:

Sydney Airport

The proposal was referred to Sydney Airport, who does not support the proposal which penetrates the Sydney Airport's Obstacle Limitation Surface and PANS-OPS surfaces, which at this location have a height of 49.3AHD. The proposal reaches 50.09RL to the top of the Telstra infrastructure on the rooftop and 49.865RL to the top of the proposed lift overrun.

Sydney Water / Ausgrid / Transport for NSW

No objection should proposal be supported.

Council Departments / Experts

Design Review Panel

Not supported, refer to discussions previously within report within SEPP (Housing) 2021.

Development Engineer

Not supported, refer to previous discussions within report with respect of bicycle, motorbike parking, loading dock, waste collection and driveway gradients / transitions.

Waste Management

Not supported, refer to previous discussions in this report.

Landscape Architect

Recommended conditions should proposal have been supported for approval.

S4.15(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 suitable for the site and is not in the public interest.

S7.11 - Development Contributions

Should the proposal have been supported, an appropriate condition of consent would be imposed to facilitate the payment of required s7.11 contributions in accordance with Council's Contribution Plans.

Housing and Productivity Contribution (HPC)

The Housing and Productivity Contribution is a broad based charge on development that is intended to help fund the delivery of state and regional infrastructure. Contributions collected help to deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space.

On 28 June 2023, NSW Parliament passed the Environmental Planning and Assessment Amendment (Housing and Productivity Contribution) Bill 2023.

Should the proposal have been supported, an appropriate condition of consent would be imposed to facilitate the payment of required HPC for the proposed increase in residential yield on site.

Conclusion and Reasons for Decision

The proposed development at 2 Fox Lane, ROCKDALE NSW 2216 (aka 401 Princes Highway, ROCKDALE NSW 2216) has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

Whilst the proposed development is a permissible land use within the zone with development consent, it is recommended for Refusal given the justification provided within this report. In response to the public notification, nine (9) submissions were received, and the matters raised in these submission have been discussed and addressed in this report.

The proposal is not supported for the following main reasons:

- The proposal penetrates Sydney Airport's Obstacle Limitation Surface and PANS-OPS surfaces, was not supported by Sydney Airport and is inconsistent with the requirements of Clause 6.7 – Airspace Operations of Bayside LEP 2021.
- The proposal is inconsistent with the objectives and requirements of State Environmental Planning Policy (Housing) 2021 and the Apartment Design Guide.
- The proposed contravention of the height of building clause of Bayside LEP 2021 has been assessed in accordance with clause 4.6 of Bayside Local Environmental Plan 2021. There are insufficient environmental planning grounds to warrant support for the proposed breach of the building height standard.
- The proposal does not demonstrate design excellence and has not been supported by Councils Design Review Panel. The height, scale and design of the proposal is unsuitable for the location, results in poor amenity on site and is incompatible with the desired future character of the Rockdale Town Centre.



Reg No.: 25/0670
Your Reference: DA-2025/167
To: BAYSIDE COUNCIL & NSW PLANNING PORTAL

Tuesday, 16 September 2025

Request for advice on proposal

Dear Sir / Madam,

Proposed Activity: PROPERTY DEVELOPMENT
Location: 401-405 PRINCES HWY ROCKDALE (FOX LANE)
Proponent: BAYSIDE COUNCIL & NSW PLANNING PORTAL
Date: 16/09/2025

The proposed development has a height of 51.24m AHD.

This site lies within Sydney Airport's Obstacle Limitation Surface (OLS), which at this location has a height of 49.3m AHD.

This site lies within Sydney Airport's PANS OPS Surface, which at this location has a height of 49.3m AHD.

Our analysis of the material provided suggests that, as shown in the 'Elevation-West' drawing of 'Architectural Drawings - 401-405 Princes Hwy Rockdale_PAN-546501 25', the proposed new buildings will in part penetrate Sydney Airport's PANS-OPS surface.

Your attention is drawn to Regulation 9 <https://www.legislation.gov.au/F1996B04438/2015-07-25/text> (Intrusion into PANS-OPS airspace) of the Airports (Protection of Airspace) Regulations 1996 which indicates such applications "**cannot be approved**".

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport

Sydney Airport Corporation Limited ACN 082 578 809 — The Nigel Love Building, 10 Arrivals Court, Locked Bag 5000
Sydney International Airport NSW 2020 Australia — Telephone +61 2 9667 9111 — sydneyairport.com.au

SYD Classification: Confidential

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

Sincerely,

Robert King
Airspace Protection Manager

Note:

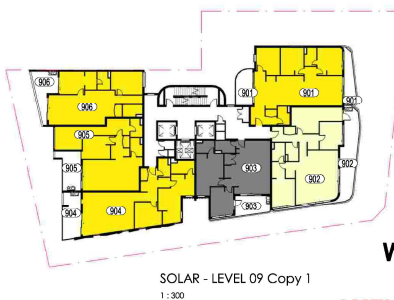
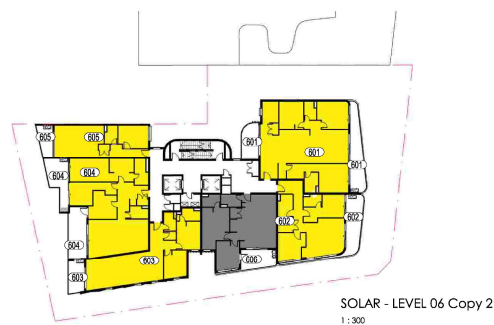
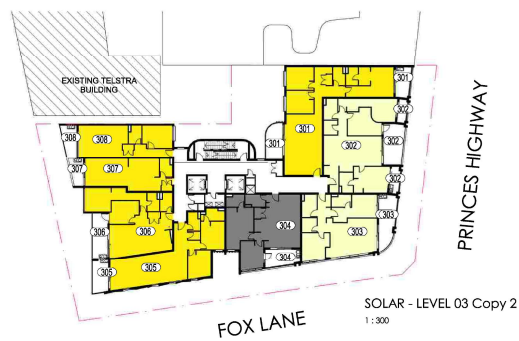
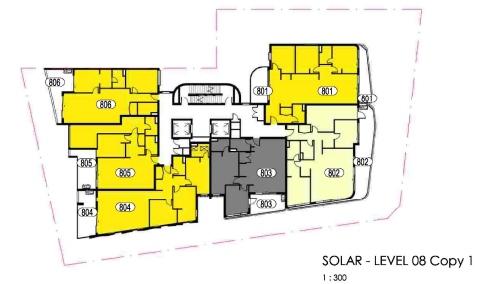
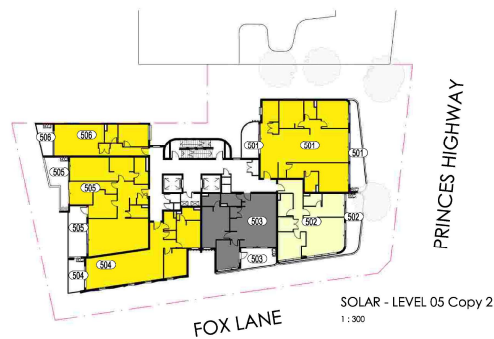
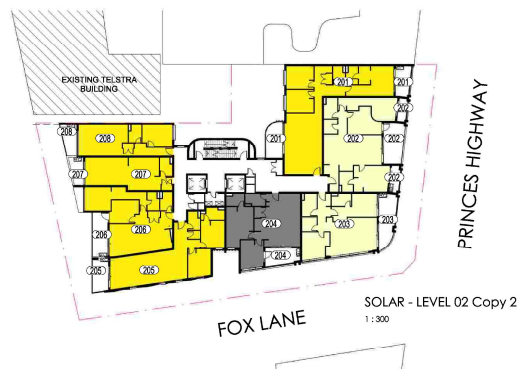
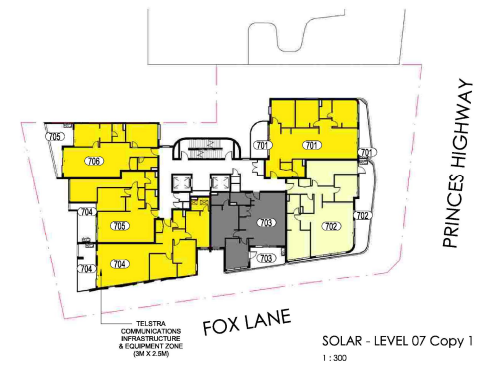
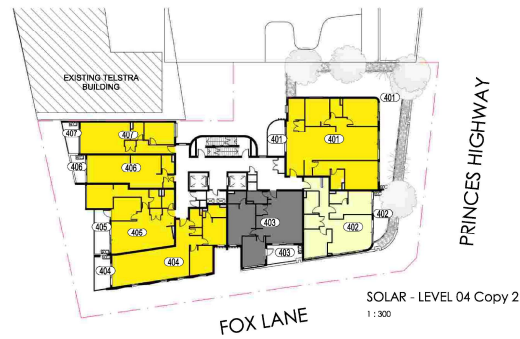
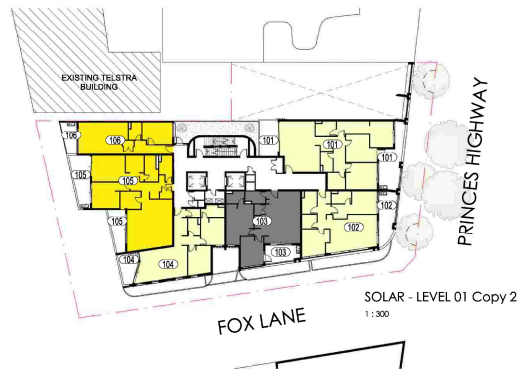
1. a person who conducts a controlled activity otherwise than with an approval commits an offence against the Act.
 - s. 183 and s. 185 Airports Act 1996.
 - Penalty: 250 penalty units.
2. if a structure is not authorised, the Federal Court may order a person to carry out remedial works, mark or light, or reduce the height of or demolish, dismantle or remove a structure.

Sydney Airport

- 2 -

SYD Classification: Confidential





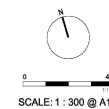
SOLAR ACCESS - COMPLIANCE SUMMARY		
SOLAR ACCESS	Count	%
Yes at 4:30PM	3	5%
Yes at 4:00 PM	1	2%
Yes at 3:45 PM	20	34%
Yes at 3:15PM	5	8%
Yes	9	15%
No	9	15%
GRAND TOTAL:	59	

**64.4% 2 HRS SOLAR
WHEN MEASURED BEYOND 3:00 PM**

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LEGEND:



PROJECT:
**#2016057
FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

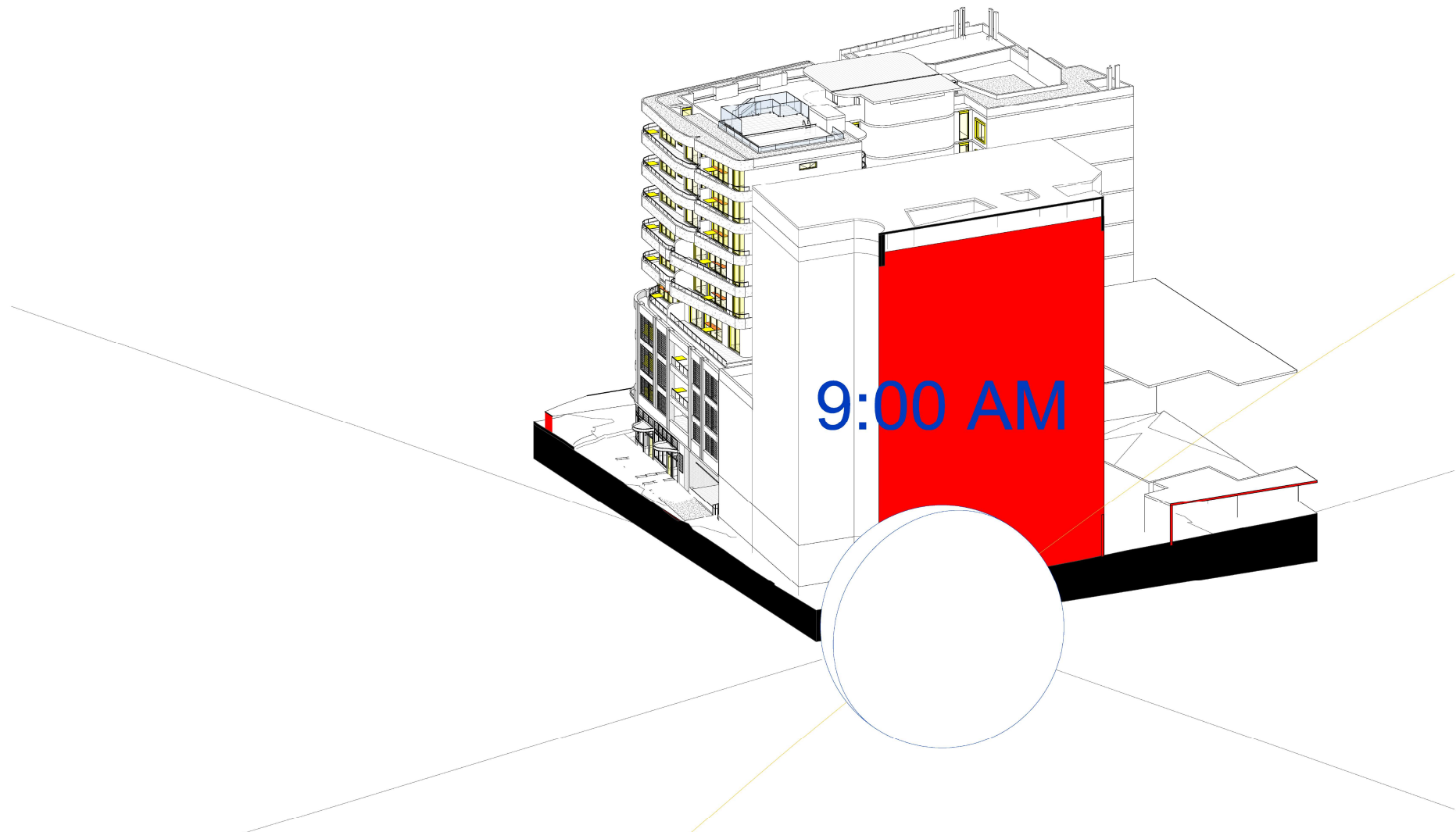
DRAWING TITLE:
**SOLAR COMPLIANCE
9.00AM - 4.30PM**
SHEET NUMBER:
DA - 603
DATE: 21/07/2025

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DISCUSSION STATEMENT	REV	DATE	DESCRIPTION	APP
Verify all dimensions on site before commencing work. Report all discrepancies to the architect prior to construction. These Studio shall not be held responsible for any discrepancies or omissions or drawings due to any discrepancies or omissions in the consultation. Use figure dimensions and drawings to provide a scale reference. Drawings made to larger scales and those showing particular parts of the work shall demonstrate over drawings made to smaller scales or for general purposes. All work is to conform to relevant Australian Standards and Codes together with all Authorities' requirements and Regulations. CONSENT: The rights reserved. This work is copyright and cannot be reproduced or copied by any means without the written permission of These Studio PTY LTD. Any copying, reuse or reprinting, to use the document for any purpose whatsoever without the written permission of the signatory between These Studio PTY LTD and the printing party.	P1	2/10/2025	CONCEPT RFP	

2/10/2025 4:47:21 PM

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REV	DATE	DESCRIPTION
P1	1/10/2025	0.14 AMENDMENTS
P2	1/10/2025	0.14 DESIGN AMENDMENTS
P3	1/10/2025	0.14 DESIGN AMENDMENTS
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P98	1/10/2025	0.14 DESIGN AMENDMENTS
P99	1/10/2025	0.14 DESIGN AMENDMENTS
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LEGEND:

External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

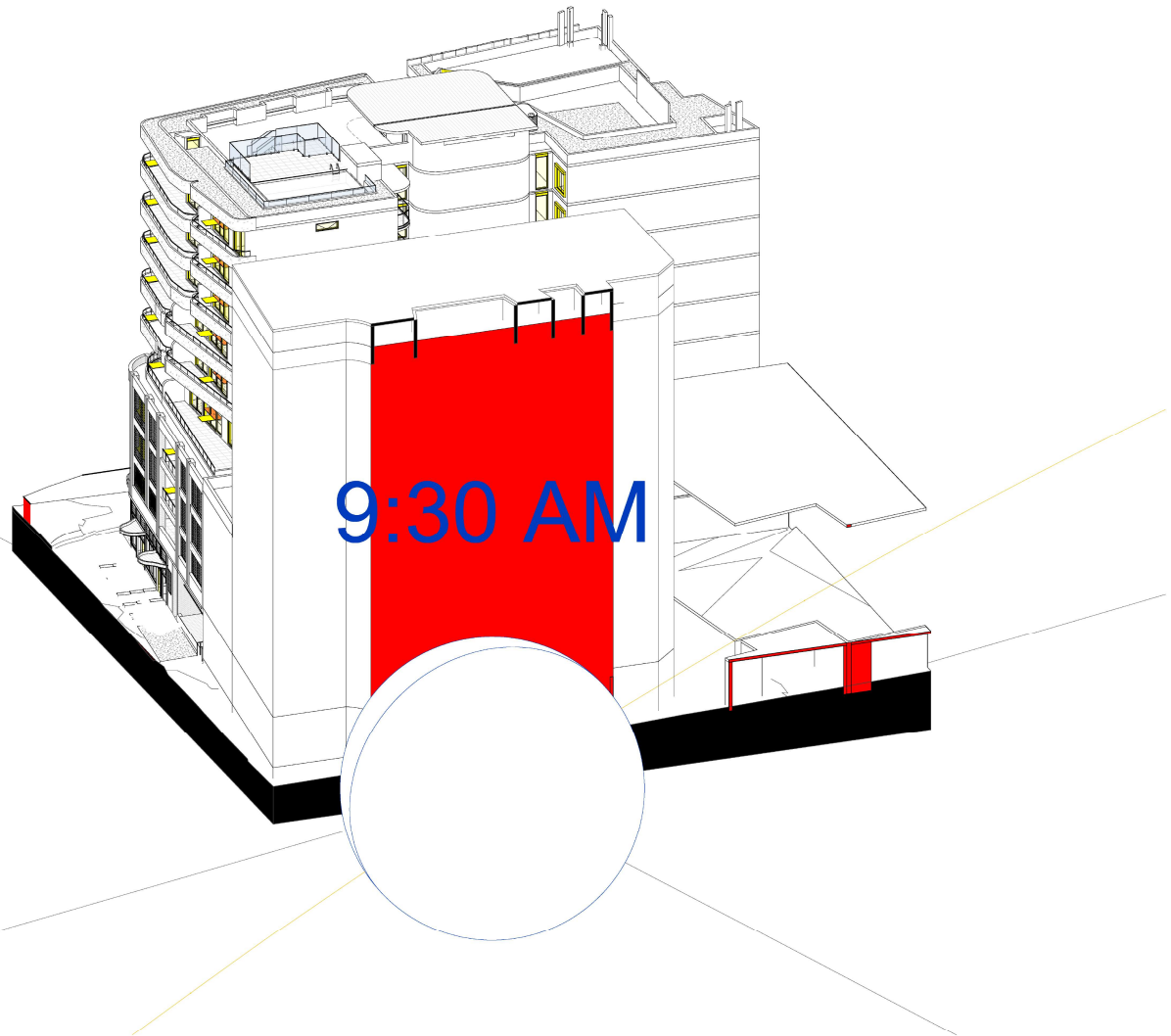
Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 9.00 AM**
SHEET NUMBER:
DA - 604
DATE: 21/07/2025

REV:
P4

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Legend:	
External (Private Open Space) - Minimum 1m ² MEASURED AT 1m ABOVE FLOOR LEVEL.	
Internal (Private Open Space) - Minimum 1m ² MEASURED AT 1m ABOVE FLOOR LEVEL.	

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-405 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 9.30 AM**

SHEET NUMBER:
DA - 605
DATE: 21/07/2025

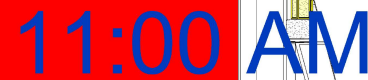
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W | www.PlaceStudio.com.au E | Studio@PlaceStudio.com.au



Item 6.1 – Attachment 3

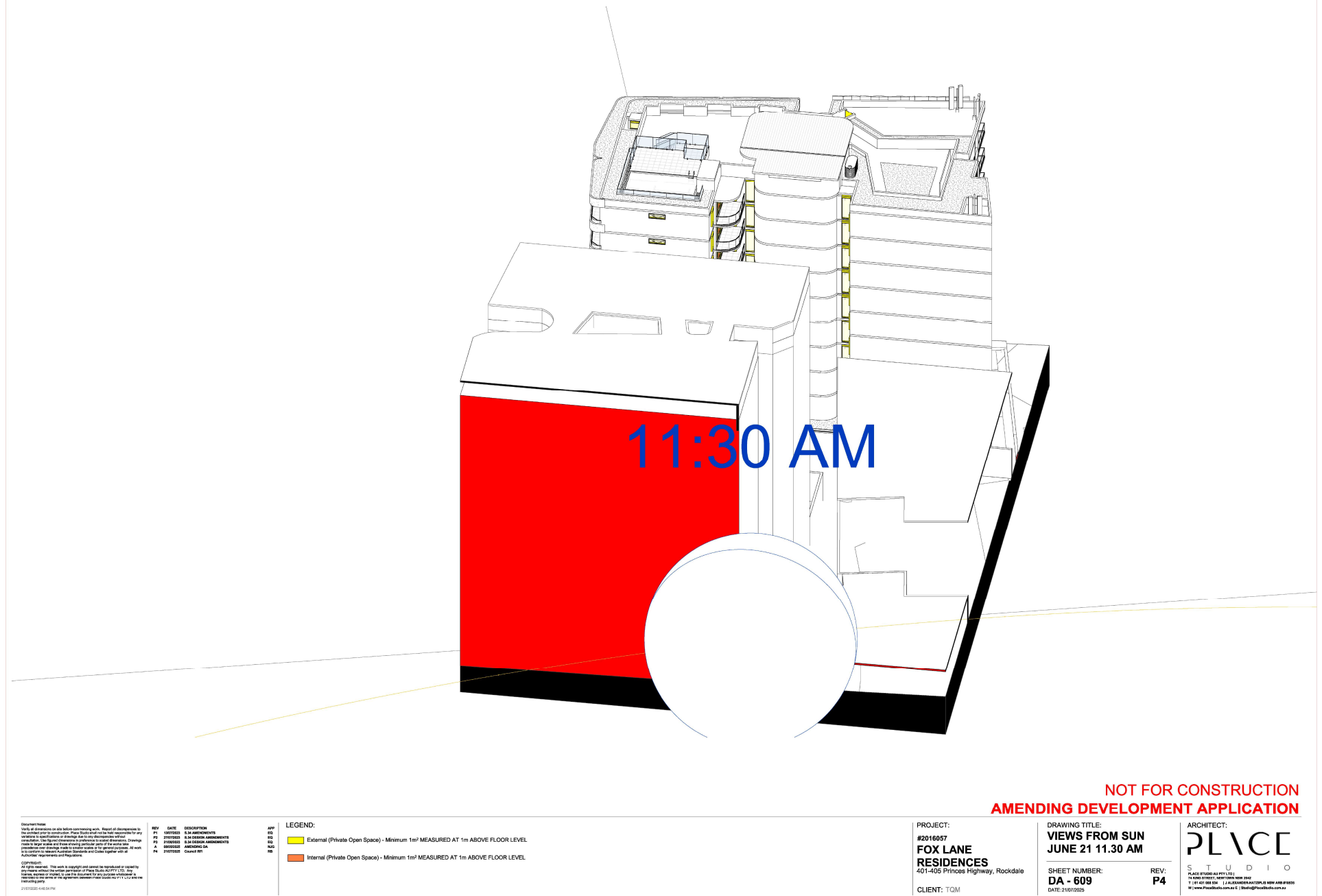


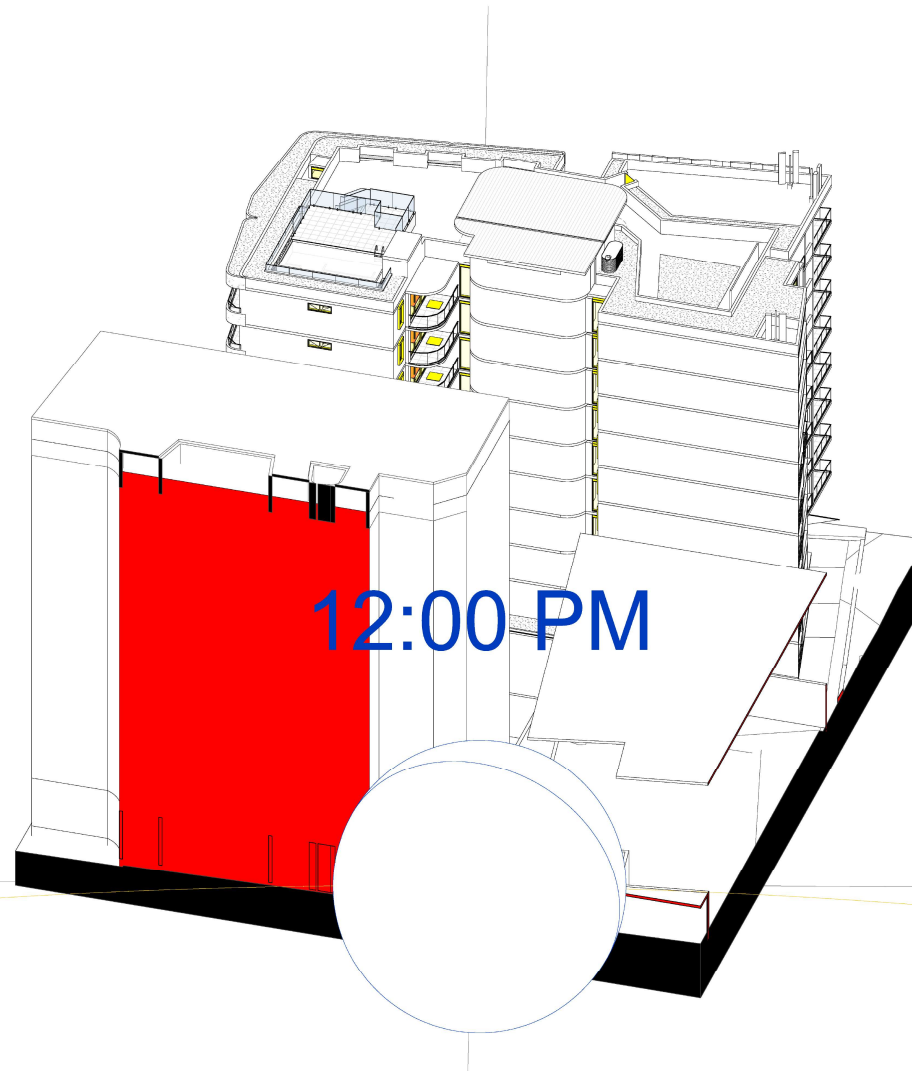
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REF	DATE	DESCRIPTION	APP
P1	10/07/2012	5.0.0.0 MACHINEMENTS	AS
P2	17/07/2012	5.0.0.0 MACHINEMENTS	AS
A	17/07/2012	5.0.0.0 MACHINEMENTS	AS
A	18/07/2012	5.0.0.0.0 MACHINEMENTS	AS
PA	17/07/2012	5.0.0.0.0 MACHINEMENTS	AS

LEGEND:





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REV	DATE	DESCRIPTION
P1	10/01/2025	0.14 AMENDMENTS
P2	10/01/2025	0.14 DESIGN AMENDMENTS
P3	10/01/2025	0.14 DESIGN AMENDMENTS
P4	10/01/2025	AMENDMENTS
P5	10/01/2025	Council RFI

REV	DATE	DESCRIPTION
01	10/01/2025	0.14 AMENDMENTS
02	10/01/2025	0.14 DESIGN AMENDMENTS
03	10/01/2025	0.14 DESIGN AMENDMENTS
04	10/01/2025	AMENDMENTS
05	10/01/2025	Council RFI

LEGEND:

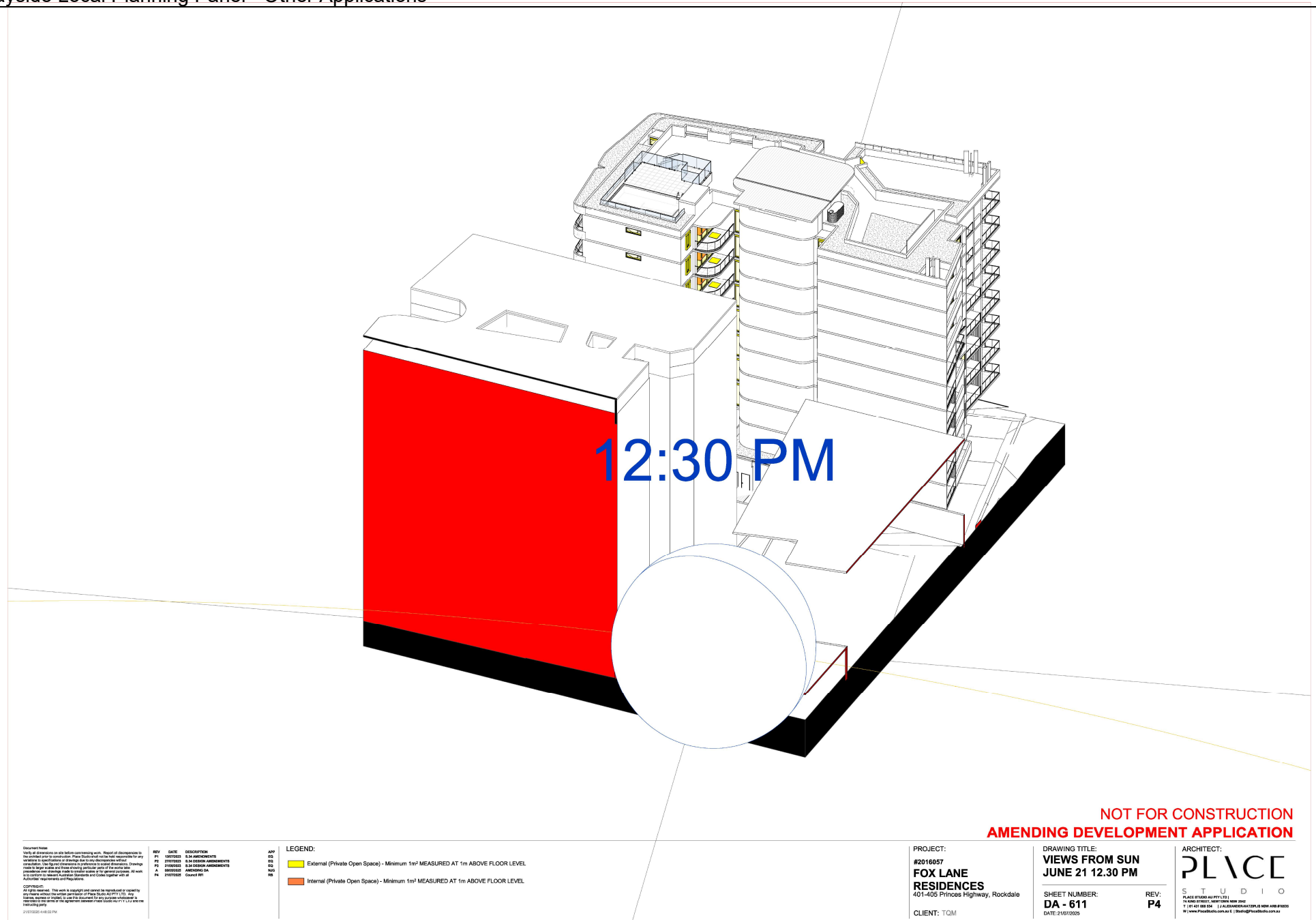
External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

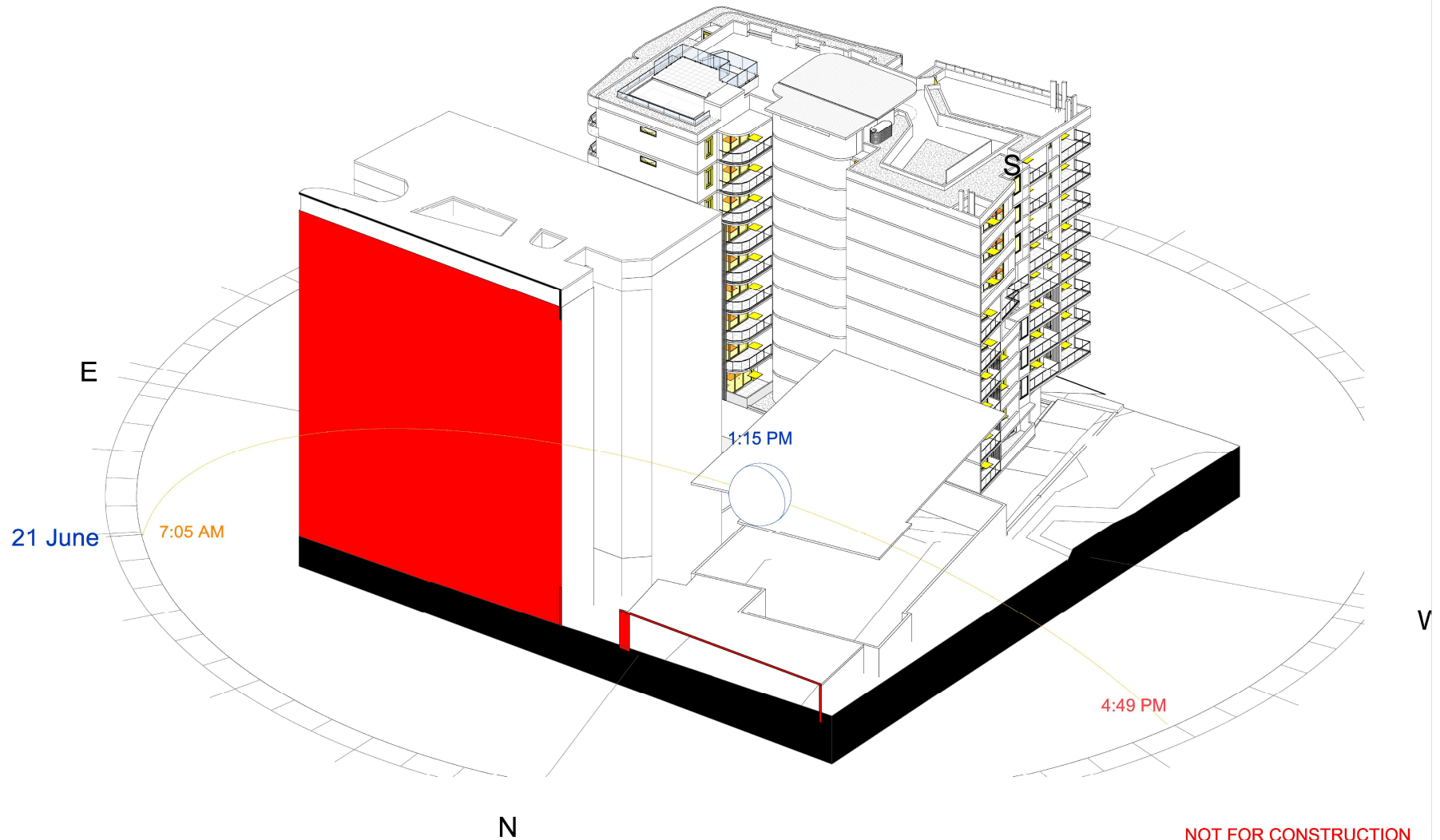
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**VIEWS FROM SUN
JUNE 21 12.00 PM**
SHEET NUMBER:
DA - 610
DATE: 21/07/2025

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10/01/2025, 10/01/2025, 10/01/2025
10/01/2025, 10/01/2025, 10/01/2025





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REV	DATE	DESCRIPTION	APP
P1	21/06/2025	S.34 DESIGN AMENDMENTS	MS
P2	21/06/2025	Checked RPT	MS

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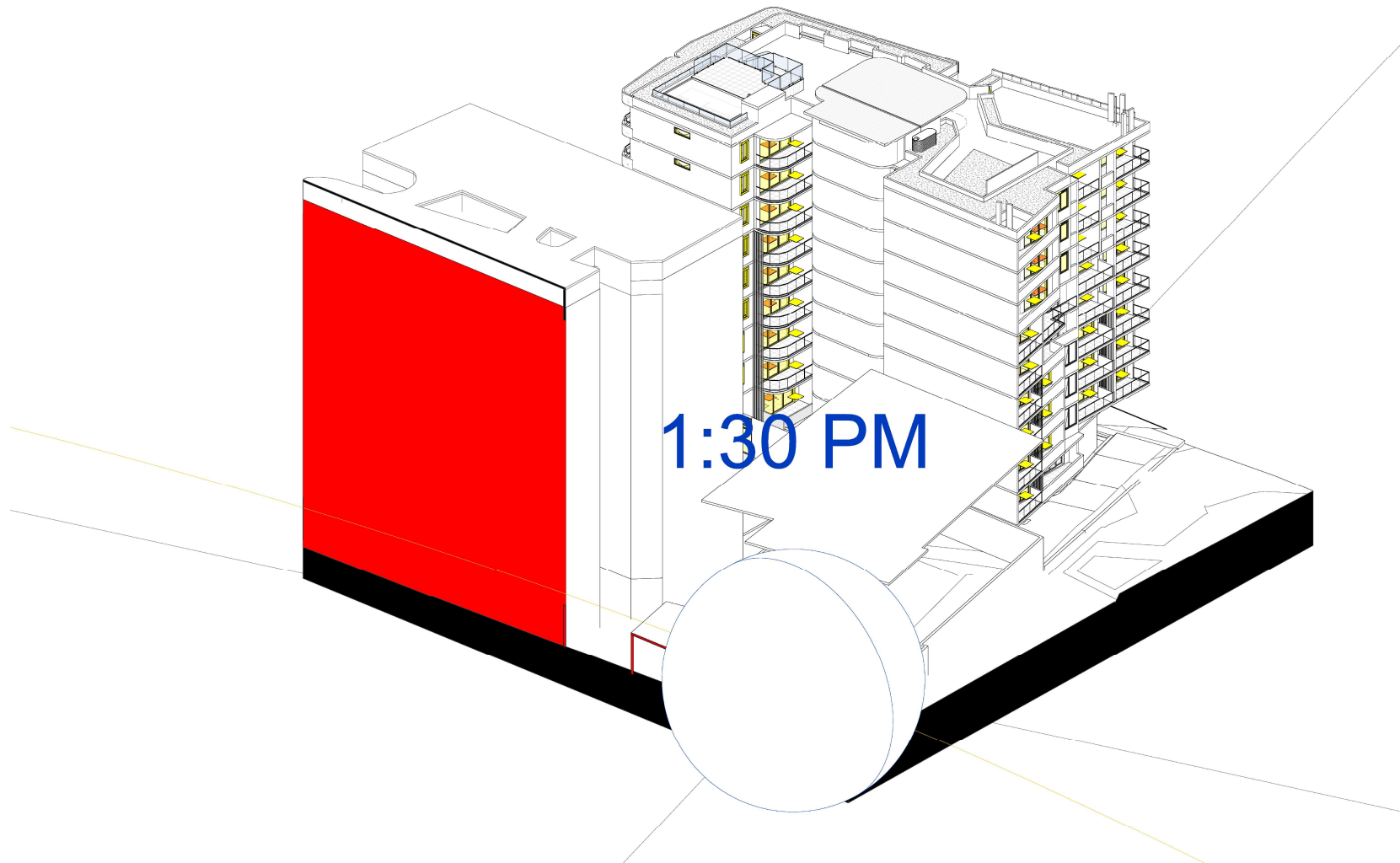
LEGEND:

- External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL
- Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
**FOX LANE
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401-406 Princes Highway, Rockdale
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DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 1.15 PM**
SHEET NUMBER:
DA - 613
DATE: 21/06/2025

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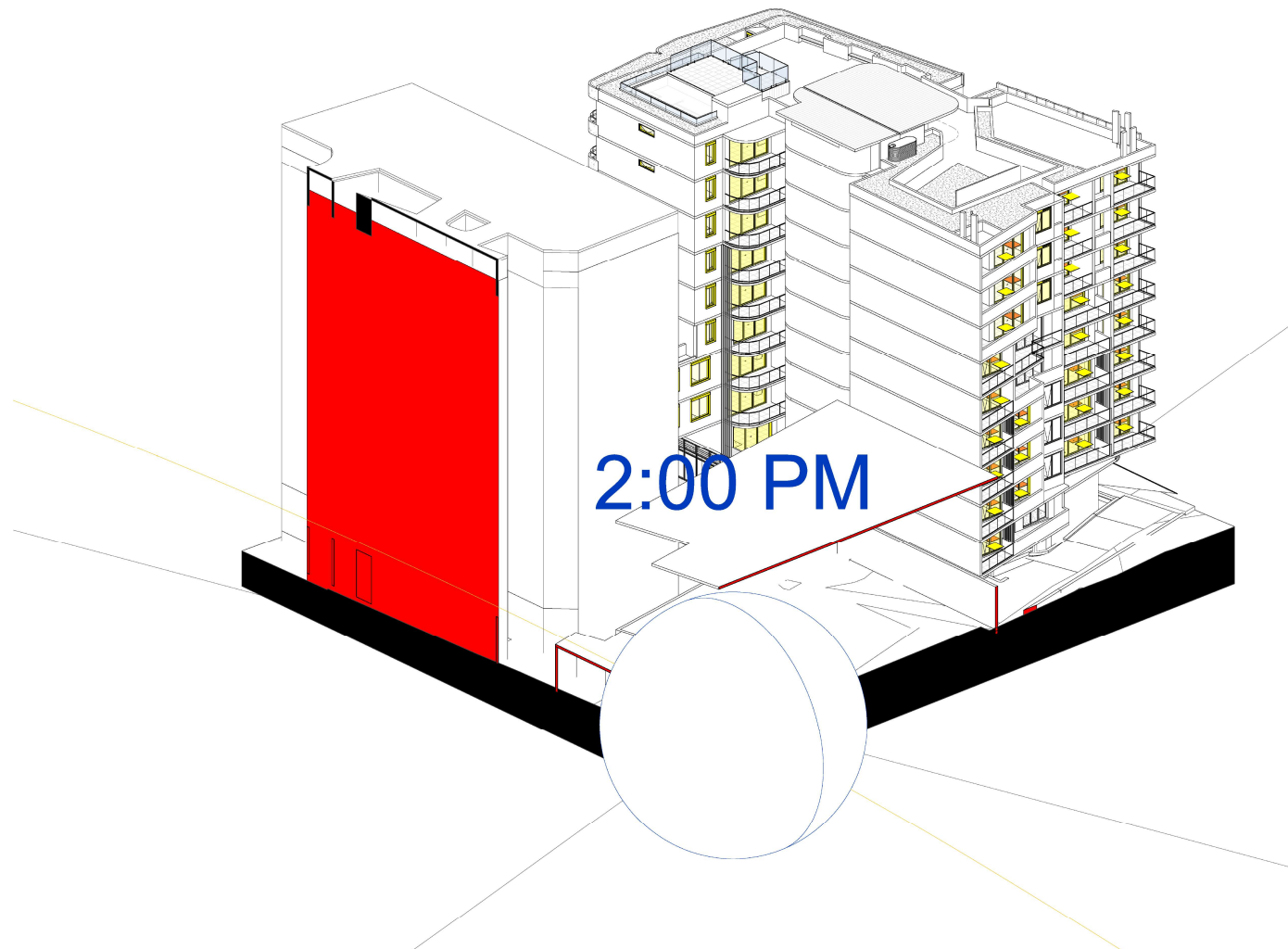
REV	DATE	DESCRIPTION
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P2	1/10/2025	0.14 DESIGN AMENDMENTS
P3	1/10/2025	0.14 DESIGN AMENDMENTS
P4	1/10/2025	0.14 DESIGN AMENDMENTS
P5	1/10/2025	0.14 DESIGN AMENDMENTS

LEGEND:
External (Private Open Space) - Minimum 1m ² MEASURED AT 1m ABOVE FLOOR LEVEL
Internal (Private Open Space) - Minimum 1m ² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

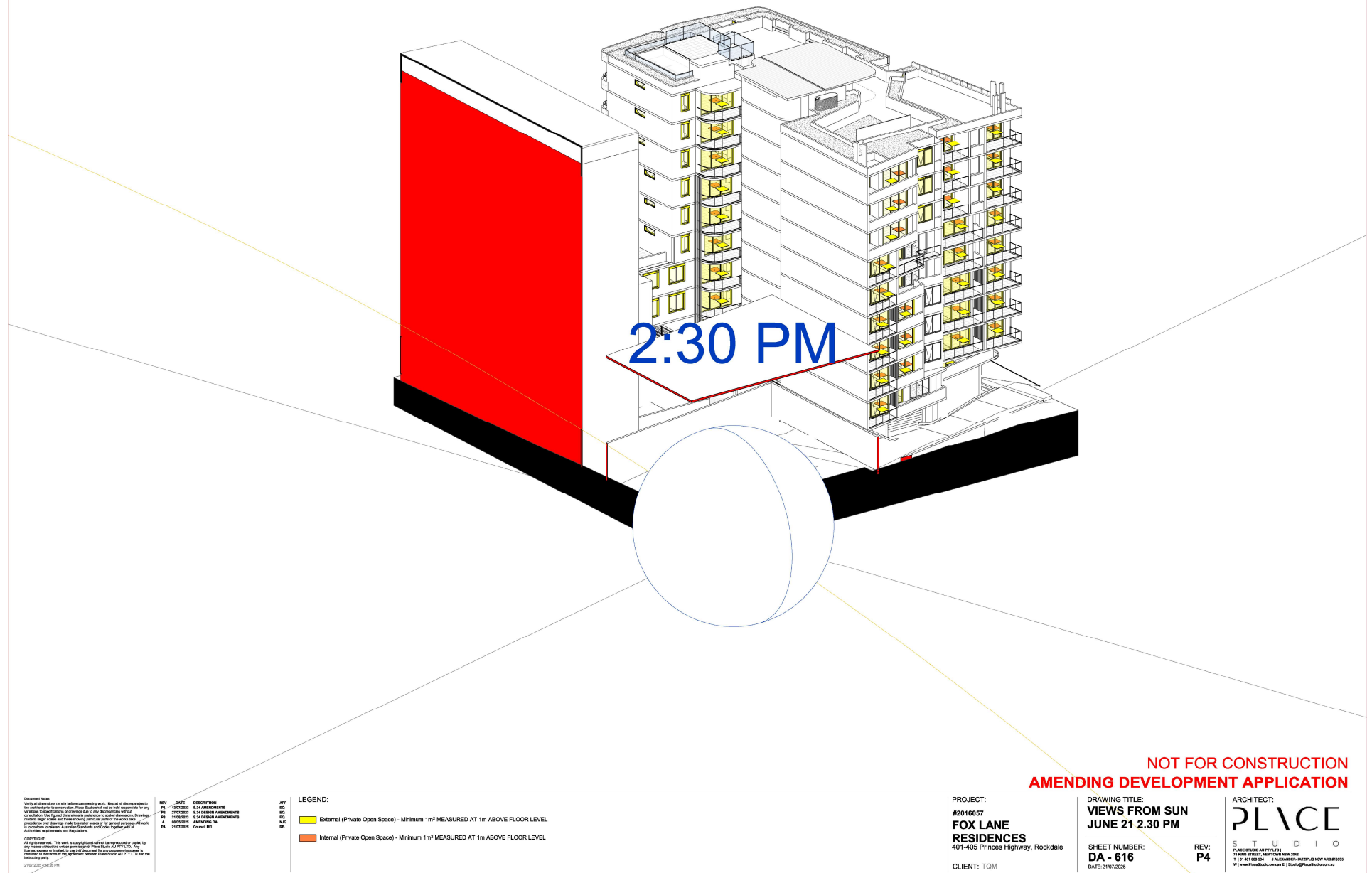
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JUNE 21 1.30 PM**
SHEET NUMBER:
DA - 614
DATE: 21/07/2025

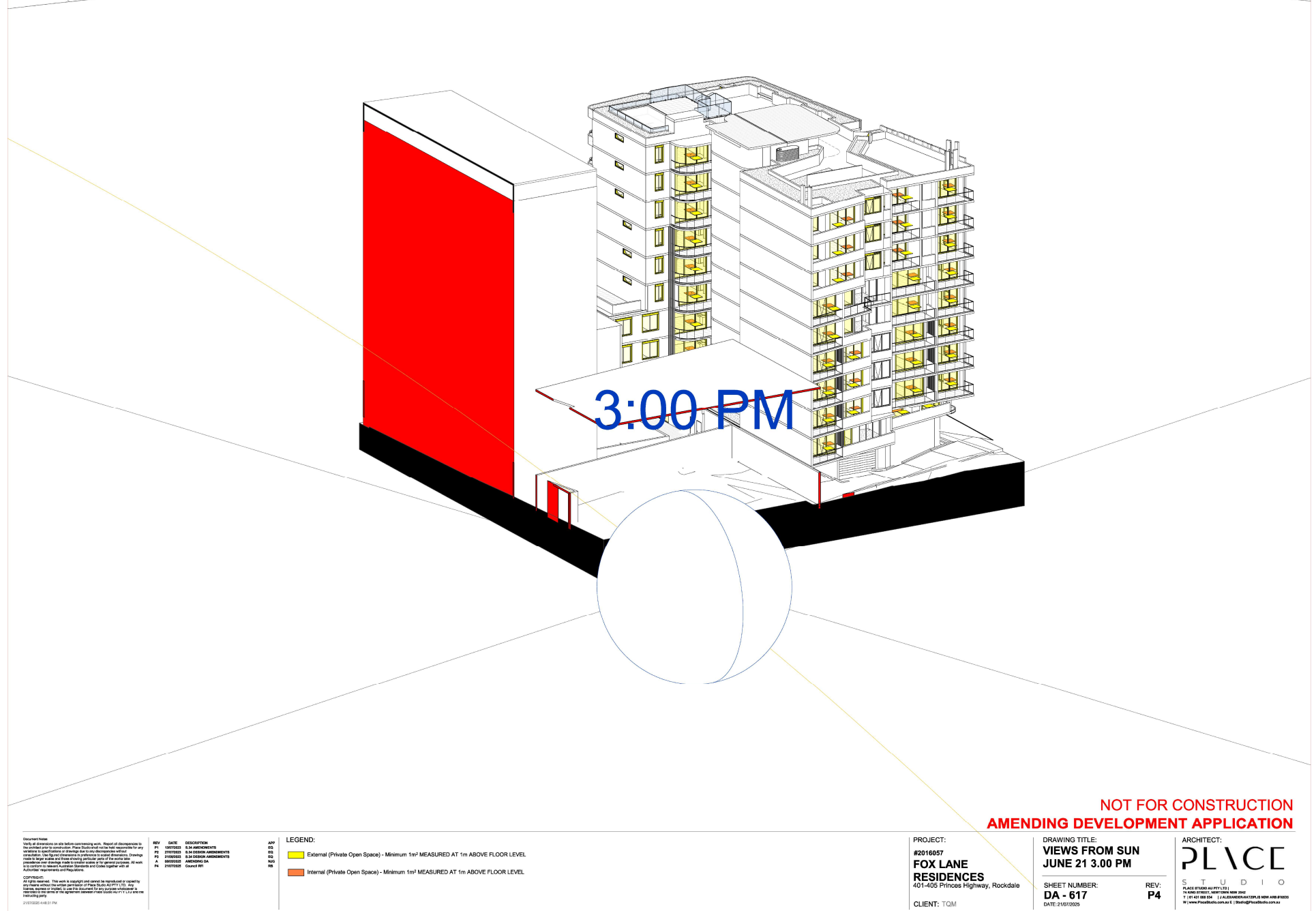
REV:
P4
ARCHITECT:
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1/10/2025 1.30 PM (2025) 1.30 PM
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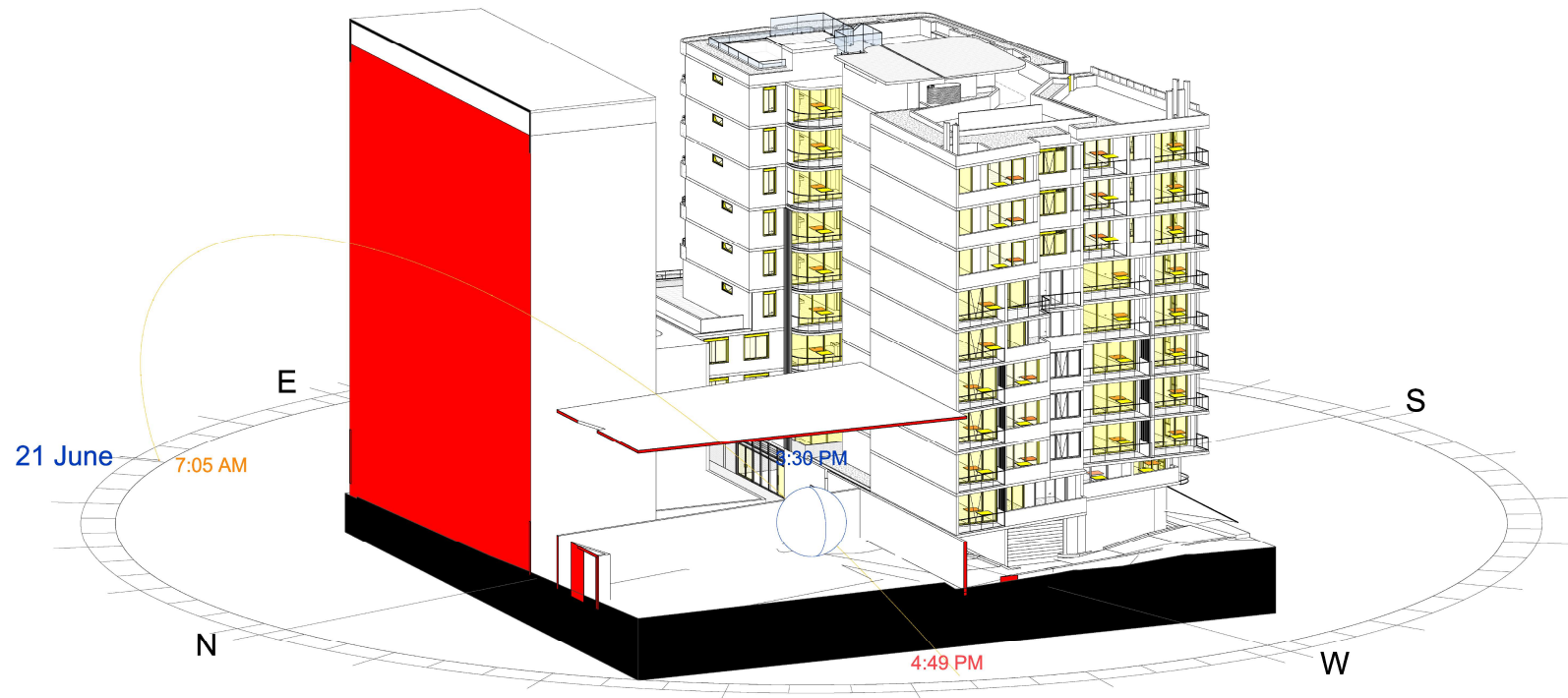


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[illegible]







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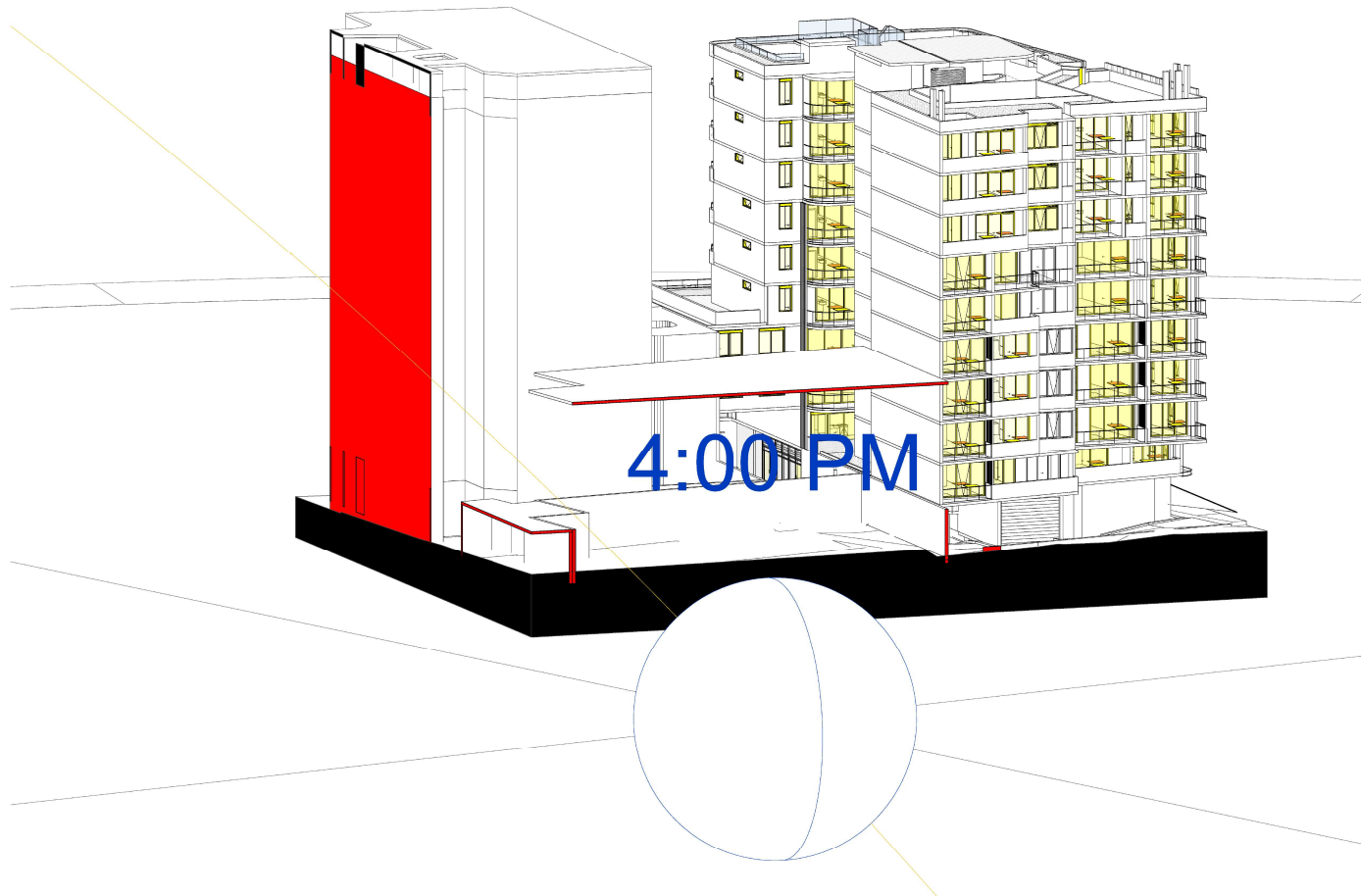
REV DATE DESCRIPTION
P1 21/06/2025 S.34 DESIGN AMENDMENTS
P2 21/06/2025 AMENDMENTS
P3 21/06/2025 General RR

LEGEND:
External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL
Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 3.30 PM**
SHEET NUMBER:
DA - 618
DATE: 21/07/2025

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REV	DATE	DESCRIPTION
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P2	21/06/2025	AMENDING DA
P3	21/06/2025	AMENDING DA

LEGEND:

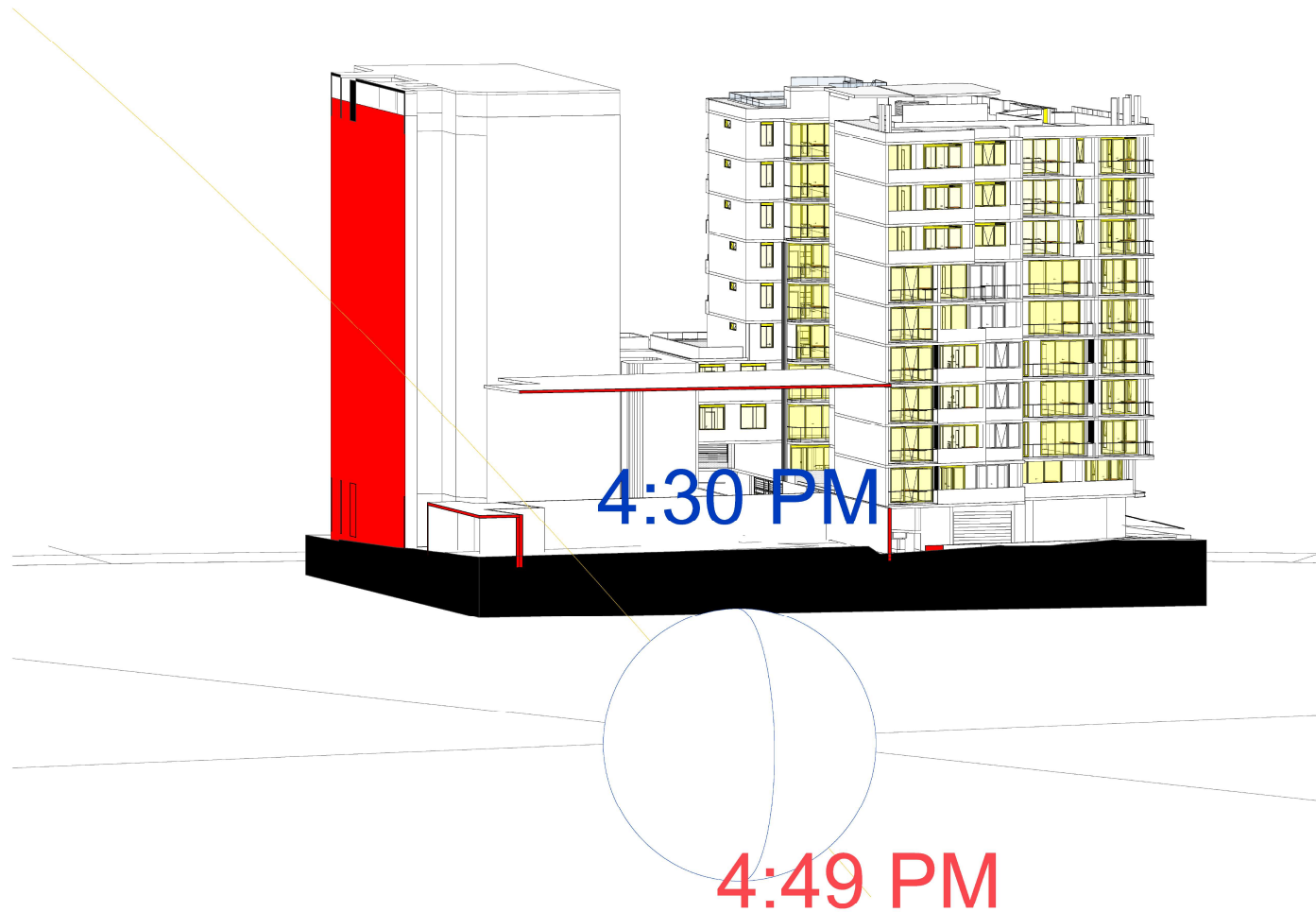
- External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL
- Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL

PROJECT:
#2016057
FOX LANE
RESIDENCES
401-406 Princes Highway, Rockdale
CLIENT: COM

DRAWING TITLE:
VIEWS FROM SUN
JUNE 21 4.00 PM
SHEET NUMBER:
DA - 651
DATE: 21/07/2025

REV:
P2

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REV	DATE	DESCRIPTION
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P2	21/06/2025	AMENDING DA
P3	21/06/2025	AMENDING DA

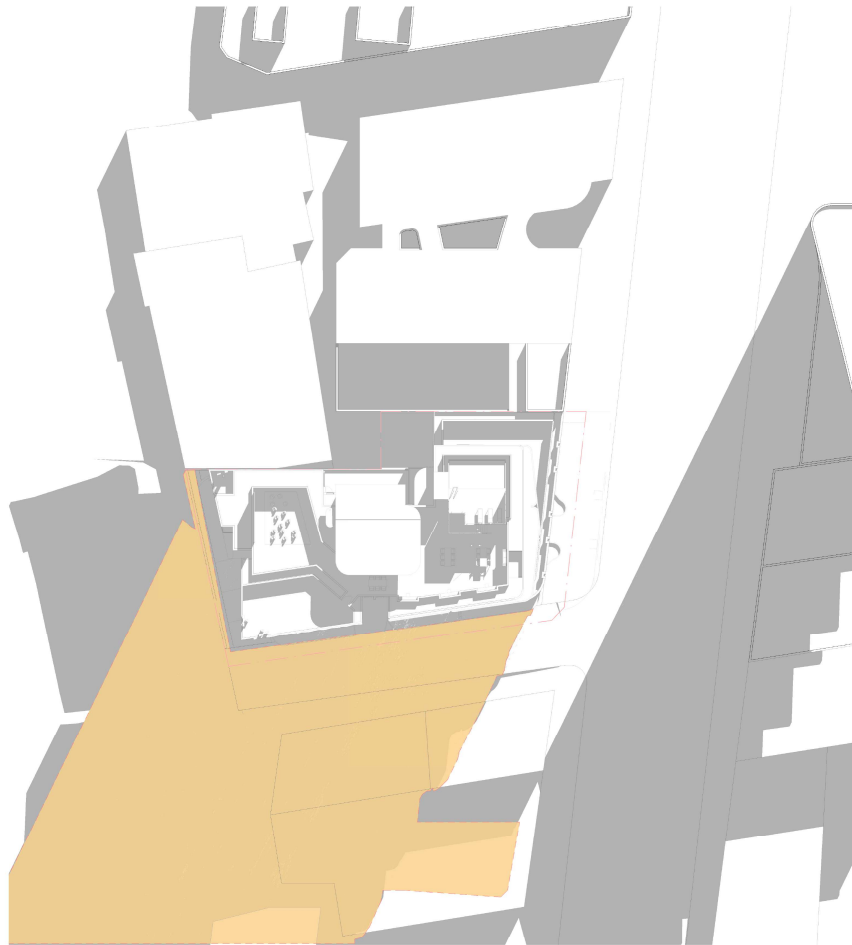
REV	DATE	DESCRIPTION
P1	21/06/2025	SLM DESIGN AMENDMENTS
P2	21/06/2025	AMENDING DA
P3	21/06/2025	AMENDING DA

LEGEND:
 External (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL.
 Internal (Private Open Space) - Minimum 1m² MEASURED AT 1m ABOVE FLOOR LEVEL.

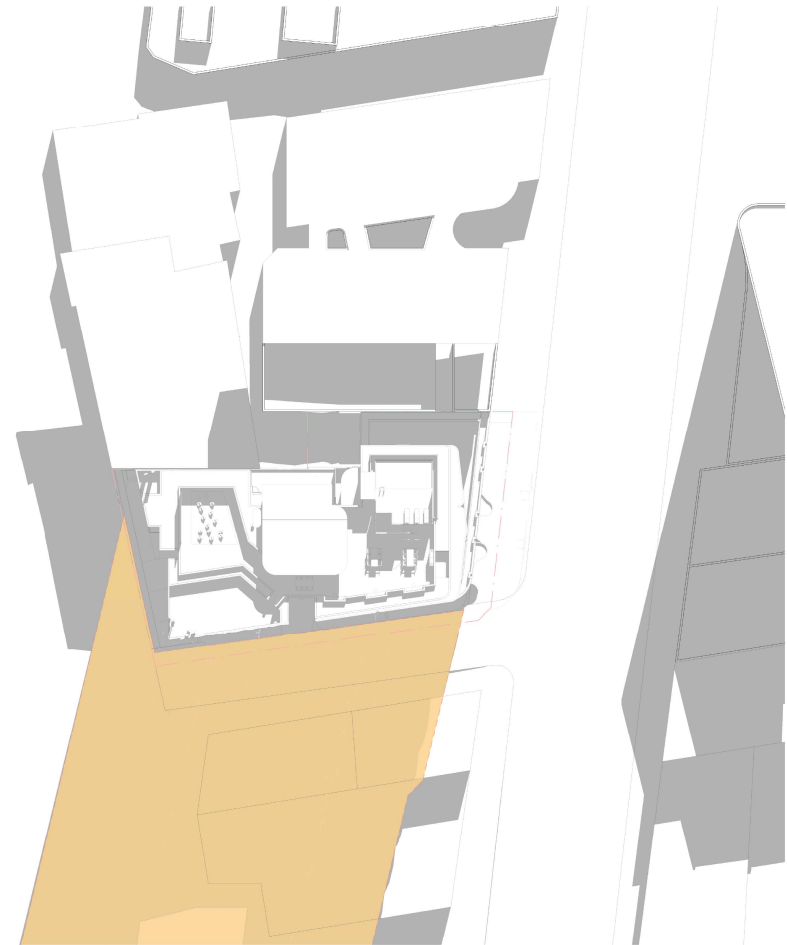
PROJECT:
#2016057
FOX LANE
RESIDENCES
 401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
VIEWS FROM SUN
JUNE 21 4.30 PM
SHEET NUMBER:
DA - 652
DATE: 21/07/2025

ARCHITECT:
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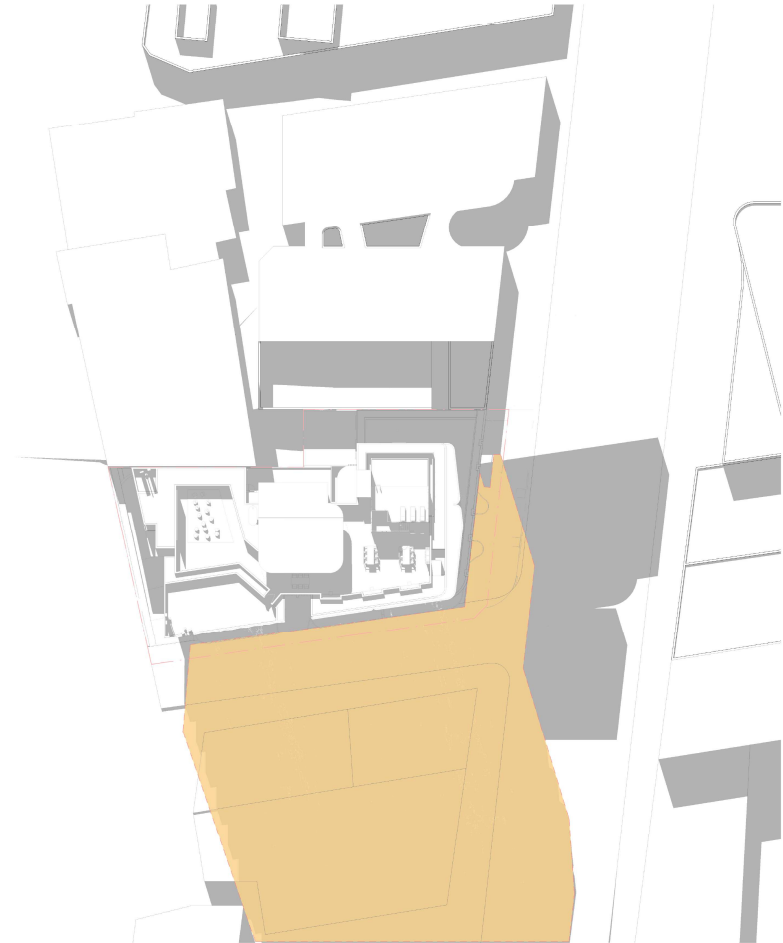
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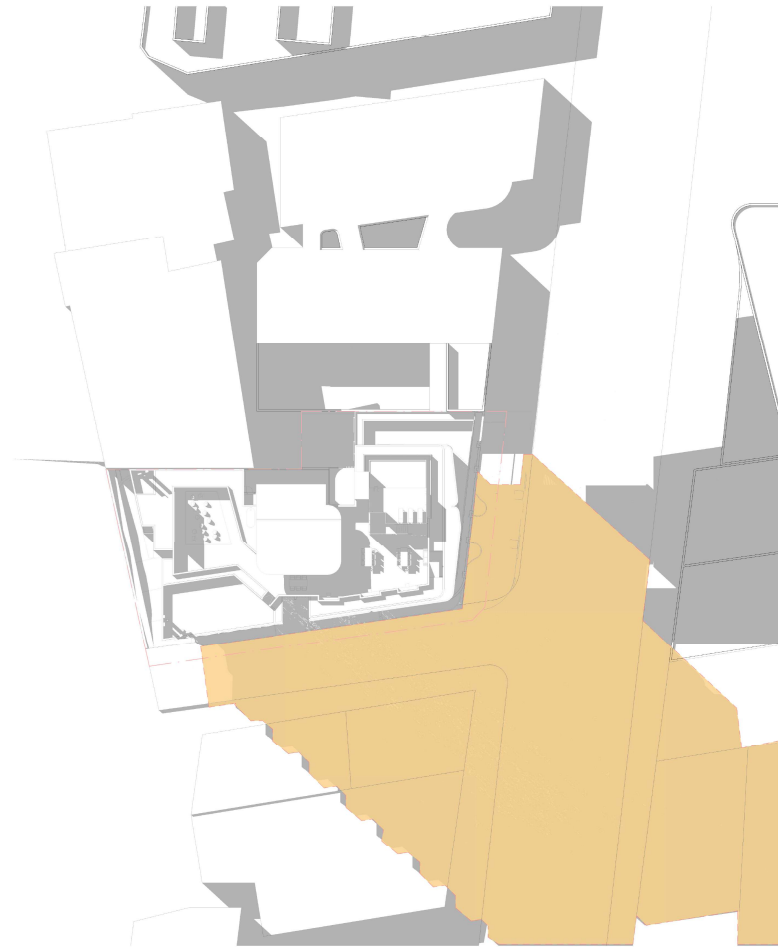


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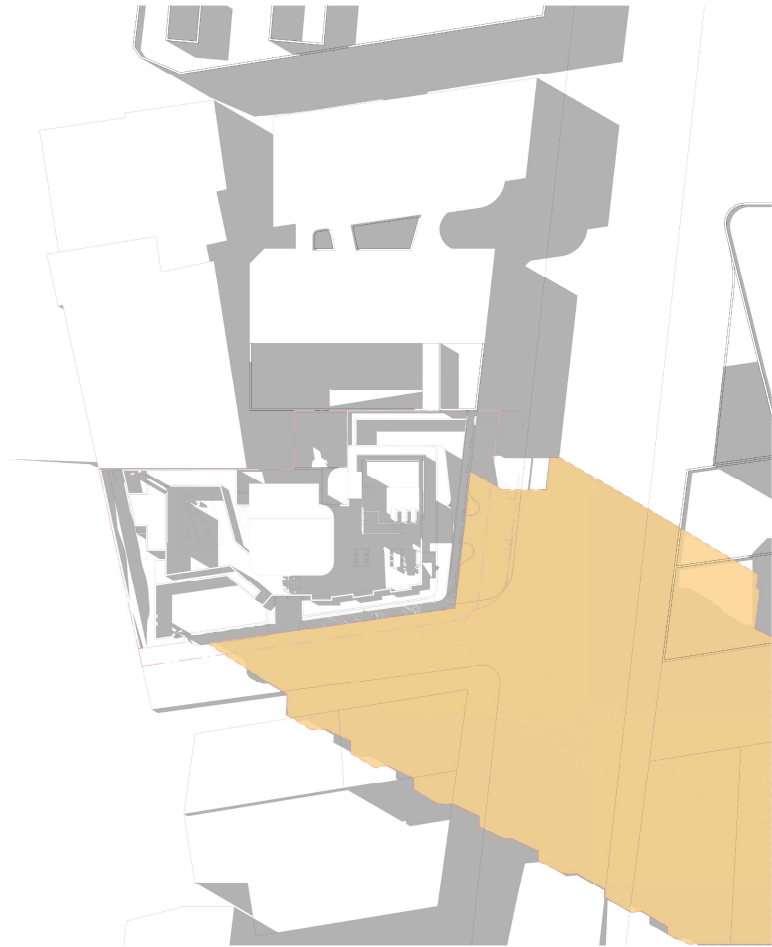
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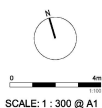
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REV	DATE	DESCRIPTION
A	20/05/2025	AMENDING DA

APP
N/A

LEGEND:



PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-405 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
SHADOW DIAGRAM
SHEET NUMBER:
DA - 622
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/400 STIRLING STREET, NEWCASTLE NSW 2300
T: 02 491 888 881 F: 02 491 888 882
W: www.placestudio.com.au E: [redacted]@placestudio.com.au



Statement of Environmental Effects

Residential Flat Building – Amending Development Application

401-405 Princes Highway, Rockdale



Submitted to: Bayside Council

On behalf of: TQM

Date: May 2025



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

BMA URBAN STAFF RESPONSIBLE FOR THIS REPORT WERE:

Managing Director.	Bernard Moroz
Project Director	Greg Hansell
Project Planner	-----
Project Code	Pri-101/25
Report Number	Final - 04/06/25

CONTACT DETAILS:

BMA URBAN

THREE INTERNATIONAL TOWERS
Suite 5, Level 24 300 Barangaroo Avenue
Sydney, NSW 2000

enquires@bmaurban.com
BMAURBAN.com

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Statement of Environmental Effects
401-405 Princes Highway, Rockdale

TABLE OF CONTENTS

1.	INTRODUCTION.....	5
1.1	Report Structure.....	6
1.2	Supporting Documentation.....	6
2.	SITE ANALYSIS AND CONTEXT.....	7
2.1	The Subject Site.....	7
2.2	The Locality.....	8
3.	PROPOSED DEVELOPMENT.....	9
3.1	DA History.....	9
3.2	Development Summary.....	9
3.3	Built form and Urban Design.....	10
3.5	Water Management.....	12
3.6	External Materials and Finishes.....	12
4.	STATUTORY PLANNING CONSIDERATIONS.....	13
4.1	Overview.....	13
4.2	Environmental Planning and Assessment Act 1979.....	13
4.3	Environmental Planning and Assessment Regulations 2021.....	15
4.4	State Environmental Planning Policies.....	15
4.6	Local Environmental Plans.....	24
4.7	Development Control Plans.....	32
5.	ENVIRONMENTAL IMPACT ASSESSMENT.....	55
5.1	Built Environment.....	55
5.2	Public Amenity.....	55
5.3	Natural Environment.....	58
5.4	Environmentally Sensitive Design.....	61
5.5	Movement and Access.....	64
5.6	Social and Economic Impacts.....	65
5.7	The Public Interest.....	65
6.	CONCLUSION.....	66

FIGURES

Figure 1: Site Plan (Base Map).....	7
Figure 2: Aerial view of the site.....	8
Figure 3: 3D Render.....	11
Figure 4: Materials and Finishes Schedule.....	12
Figure 5: Zoning map extract.....	24
Figure 6: HoB map extract.....	25
Figure 7: Amalgamation Pattern.....	45



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

TABLES

Table 1: Technical and design documentation.....	6
Table 2: Numeric Overview of the proposed development.....	10
Table 3: Section 4.15 of the EP&A Act 1979	15
Table 4: ADG core compliance summary	23
Table 5: BLEP 2021 compliance table	31
Table 6: Bayside Development Control Plan 2022 compliance table	54



1. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared by BMA Urban in support of a Development Application (DA) to Bayside Council, prepared in accordance with Section 4.12 of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2021. The proposed development is for **'alterations and additions'** to an approved residential flat building (**DA-2016/150**), further revised by way of numerous modifications, the last of which is identified by way of (**MDA-2022/204**), which incorporated various changes to the layout of the approved building.

This application is submitted as an **'Amending Development Application'**. In this regard, this application seeks to amend the original consent to permit **'alterations and additions'** to the approved mixed-use development, hence the subject application being defined as an amending DA. This is consistent with Section 4.17 of the Environmental Planning and Assessment Act 1979 which permits amendments to an existing development consent.

The Bayside Local Environmental Plan 2021 (BLEP 2021) applies to the subject site. The site is located within the MU-1 Mixed Use zone and the proposed **'alterations and additions'** to the approved development are permissible with consent and align with the objectives of the zone. The proposal is also generally compliant with the relevant provisions of the Housing SEPP and Bayside Development Control Plan 2022 and is a suitable form of development within the site context.

In brief, the proposal:

- positively contributes to the prominent site setting with a large emphasis placed on interface relationships and residential and neighbourhood amenity;
- continues to provide for a *'mixed use building'* which will contribute to the economic redevelopment of the immediate area; and
- provides for a re built form and massing which is commensurate with the likely evolution in built forms governed by the land zoning and prescribed controls applicable to the land.

The SEE concludes this proposal is of an appropriate scale and mass for the site, is consistent with its immediate context and the desired future character of the area, is well designed and has no adverse amenity impacts and will make a valuable contribution to housing supply and diversity in the Bayside LGA. As such, it is considered that the proposal will deliver a suitable and appropriate development for the site and is worthy of approval.

In view of the contents of this report, we are satisfied that this proposal has properly responded to all relevant matters for consideration within Clause 4.15 of the Environmental Planning and Assessment Act, and the accompanying Regulation.



1.1 Report Structure

This SEE is structured in the following manner:

- **Section 1** - Introduction;
- **Section 2** - Analysis of site and surrounding context;
- **Section 3** - Description of the Development
- **Section 4** - Assessment of the proposal's compliance with relevant planning instruments and policies;
- **Section 5** - Impact assessment and consideration of key planning issues as required by Section 4.15 of the EP&A Act; and
- **Section 6** - Conclusion.

1.2 Supporting Documentation

The technical and design documents that have been prepared to accompany this DA are identified in **Table 1** and are as follows;

Document:	Prepared by:
Architectural Plans	Place Studio
Stormwater Plans	Mance Arraj
Landscape Plans	Vision Dynamics
Access	East coast accessibility
Traffic Report	TTPA
Wind	ANA Civil
BASIX	Gradwell Consulting
Acoustic Report	Acoustic Logic
Cost Summary	QPC and C
Waste	Elephants Foot

Table 1: Technical and design documentation



2. SITE ANALYSIS AND CONTEXT

2.1 The Subject Site

The development site consists of Lot 100 in DP 1097898. The subject site has two street frontages to Princes Highway (east) and Fox Lane (south). The subject site is irregular in shape and comprises of a 26.015 metre eastern Princes Highway boundary, a 2.37 metre southeastern splay to the corner of Fox Lane and Princes Highway, a 43.075 metre southern Fox Lane boundary, a 26.6 metre western boundary abutting the Illawarra line railway, a 25.82 metre (part) northern boundary, a 7.705 metre (part) western boundary and a 27.1 metre (part) northern boundary.

The development site area is approximately 1306m².

Figures 1 and 2 below provide an aerial view identifying the location of the site within its defining context.

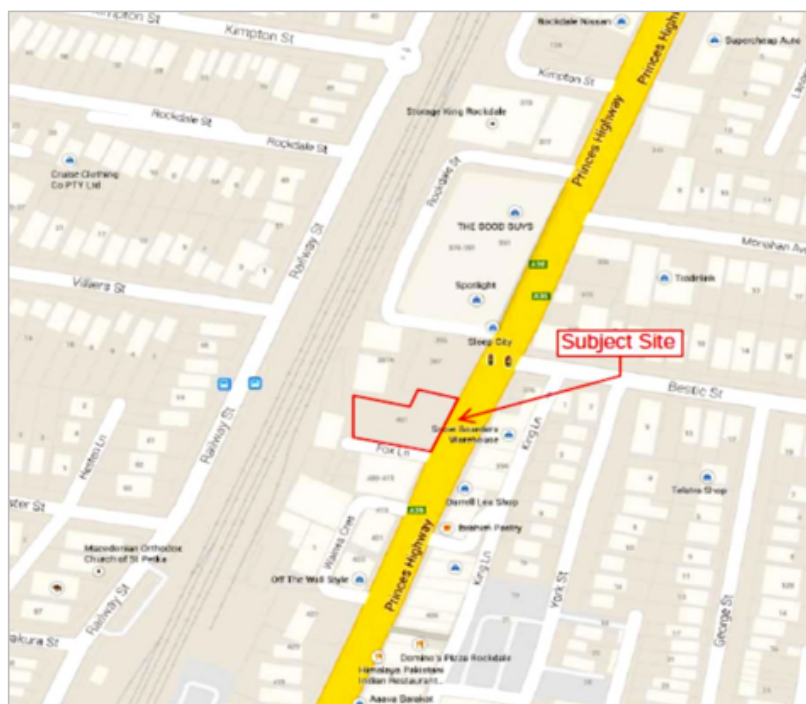


Figure 1: Site Plan (Base Map)

Source: Six Maps

Subject site 



Statement of Environmental Effects
401-405 Princes Highway, Rockdale



Figure 2: Aerial view of the site
Source: NearMap 2024

Subject site 

2.2 The Locality

The site is located on the western side of the Princes Highway, on the north-eastern corner of Fox Lane and the highway. The site is located towards the northern end of the Rockdale Town Centre and is primarily surrounded by a range of commercial / retail uses that front the Princes Highway. Immediately to the north is a used car sales yard and Telephone Exchange Building.

Beyond these is a two storey bulky goods premises that is occupied by a number of businesses including Anaconda, The Good Guys, Spotlight etc.



3. PROPOSED DEVELOPMENT

3.1 DA History

3.1.1 DA 2016/150/Modifications 1 and 2

DA2016/150 was approved as an Integrated development for the construction of a seven (7) storey mixed use development comprising 39 residential units and 2 commercial units with basement parking. The development was subsequently modified on two (2) further occasions which increased the number of apartments to 43 and increased the number of commercial tenancies to 3. There was also a modification approval relevant to the extension of the deferred commencement period.

3.1.2 MDA 2022/204

MDA 2022/204 was approved on 12 September 2023 for a number of changes across the building including reconfiguration of the approved floor plates for the purpose of providing forty (40) apartments, introduction of two basement levels, layout changes, façade changes and the inclusion of winter gardens.

3.2 Development Summary

This DA seeks consent for: alterations and additions to an approved residential flat building which incorporates various changes to the layout of the approved building (including the basement levels) as well as the provision of an additional three (3) storeys and communal facilities generally. Across the ground floor, the OSD tank has been relocated, waste room sizes have been increased, addition of a FOGO waste room and the relocation of the managers room.



Parameter	Proposal
Site Area	Total Land Area - 1306m ²
Floor Space Ratio	4.6:1 (6009m ²)
Deep Soil Provision	253m ² or 15%
Building Height (maximum)	34.435m
Apartment Mix (Across Development as a whole)	• six (6) • thirty-two (32) • Eighteen (18) Total = 59 Fifty-Nine Note: DA2016/150 provided consent for a total of 39 dwellings. MDA 2022/204 which was the last relevant modification, comprised of 43 apartments. The subject application seeks to provide for a total of 59.
Parking Provision (Total)	• Resident - 74 spaces • Visitor - 13 spaces • Commercial - 6 spaces • Motorbike - 4 spaces • Bicycle - 11 spaces
Communal open space	529m ² or 40.5%
Land Use	Mixed Use Development

Table 2: Numeric Overview of the proposed development

3.3 Built form and Urban Design

The building would be a total of ten (10) storeys in scale with rooftop communal area as interpreted from the Princes Highway. The building presents a defined four (4) storey base to the Princes highway alongside visually recessed upper levels so as to minimise visual bulk and scale, amenity impacts. Rooftop level communal space is provided which includes a swimming pool, open air theatre, decking and bench spaces.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

As shown in **Figure 3** being the development render, the buildings have been modulated to provide articulation and visual interest when viewed from the public domain.

The elevations are highly modulated using articulated walls and varying setbacks. A range of different materials and colours have been used to further visually break up the built form, including brick, painted render, aluminium framing and off form concrete.



Figure 3: 3D Render
Source: Place Studio

3.4 Landscaping/Communal Open Space

Landscape Plans prepared by *Vision Dynamics* accompany this development application.

The landscape design strategy seeks to provide residents with a diversity of spaces and activities for their leisure that are both attractive and functional. The planting palette will be vibrant and lush, reflecting the desired future character of the area and with a focus on native and floral species. The design aims to deliver opportunities for community gathering at both ground floor level relevant to commercial outdoor seating and across the rooftop level relevant to the communal spaces servicing the residential component of the development. Landscaping is also provided to the Princes Highway frontage, which also includes public works relevant to footpath and tree planting along the public domain.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

3.5 Water Management

In accordance with Council's guidelines for stormwater and water cycle management, a revised plan has been provided that addresses in the stormwater management plan incorporating on-site detention and discharge to the public drainage network via new stormwater infrastructure proposed across the site which feeds into the inlet structures. Whilst the drainage design has been updated to reflect the design changes made, it remains generally consistent with the approved outcomes in this respect.

3.6 External Materials and Finishes

Details of the proposed materials of the development are included as part of the Architectural Drawings prepared by Place Studio and are also reproduced for reference in **Figure 4** below. The building will continue to use a combination of contemporary materials to provide a visually interesting facade that responds to the future surrounding built form character.

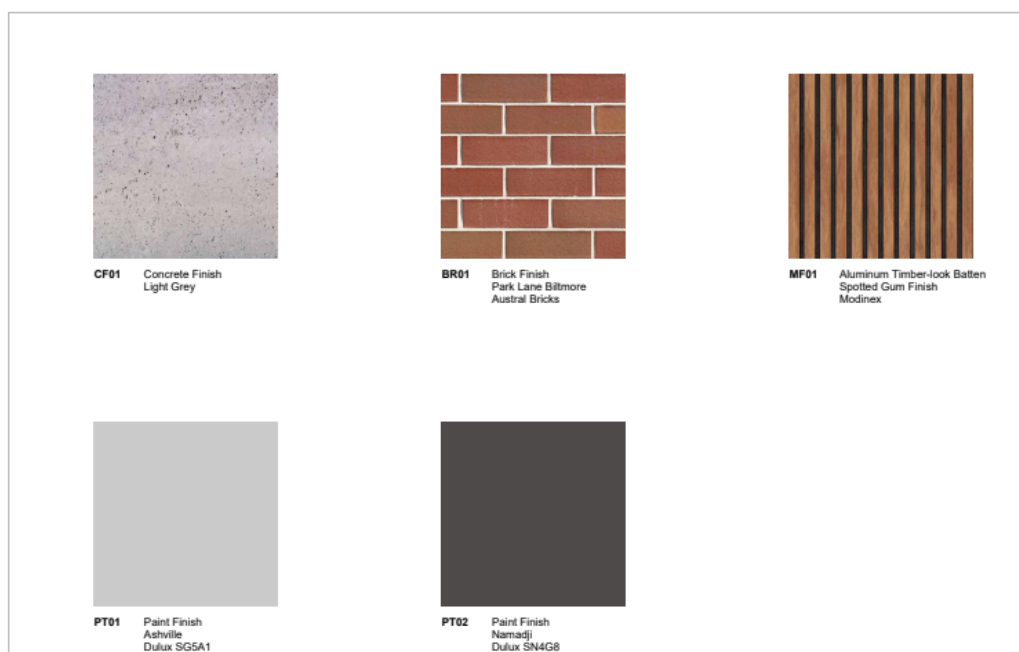


Figure 4: Materials and Finishes Schedule
Source: Place Studio



4. STATUTORY PLANNING CONSIDERATIONS

4.1 Overview

The relevant statutory framework considered in the preparation of this report comprises:

- Environmental Planning and Assessment Act, 1979;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- State Environmental Planning Policy (Housing) 2021;
- Bayside Local Environmental Plan 2021; and
- Bayside Development Control Plan 2022.

The relevant provisions and controls of the above Instruments and Plans are summarised in the following sections of this SEE.

4.2 Environmental Planning and Assessment Act 1979

4.2.1 Section 1.3 - Objects

The Environmental Planning and Assessment Act, 1979 (the Act) is the principle planning and development legislation in New South Wales. In accordance with Section 1.3, the objectives of the Act are:

- *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- *to promote the orderly and economic use and development of land,*
- *to promote the delivery and maintenance of affordable housing,*
- *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- *to promote good design and amenity of the built environment*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- *to provide increased opportunity for community participation in environmental planning and assessment.*



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

For the reasons set out below, it is considered that the proposed development satisfies the above stated objects of the Act:

- The new stock increases employment opportunities and delivers a residential form of accommodation in a well serviced area;
- Creation of additional jobs during the construction phase;
- The proposal will result in the orderly and economic use and development of land;
- The proposed building promotes a high standard of environmental performance, incorporating the principles of ecologically sustainable development, while responding to the context and enhancing the qualities of the area; and
- Appropriate utility services are provided.

4.2.2. Section 4.15 of the EP&A Act 1979

Section 4.15(1) of the Act as amended specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the Act are addressed in the Table below.

Section	Comment
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in Section 4.
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	The provision of any draft State Environmental Planning Policy is discussed at Section 4.6
Section 4.15(1)(a)(iii) Any development control plan	Consideration of relevant the development control plan is discussed in Section 4.7.
Section 4.15(1)(a)(iia) Any planning agreement	Not relevant to this application.
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to Section 4.3
Section 4.15(1)(b)	The likely impacts of the proposed development have been discussed throughout this Report, particularly Section 5 of this SEE.
Section 4.15(1)(c) The suitability of the site	The suitability of the site has been discussed throughout this Report, particularly within Section 5 of this SEE.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Section 4.15(1)(d) Any submissions	It is understood that the DA for the proposed development will be publicly notified as is statutorily required.
Section 4.15(1)(e) The public interest	The proposed development will increase housing choice by providing further residential apartments, that will contribute to meeting the housing targets within the LGA. The proposed development is therefore in the public interest.

Table 3: Section 4.15 of the EP&A Act 1979

4.3 Environmental Planning and Assessment Regulations 2021

4.3.1. Section 61 - Additional matters that consent authority must consider

Section 61 of the EP&A Reg prescribes those additional matters that are to be taken into consideration by a consent authority in assessing and determining a DA for the purposes of Section 4.15(1)(a)(iv) of the EP&A Act. All demolition works will undertaken in accordance with the Australian Standard AS 2601–2001: *The Demolition of Structures*.

4.3.2. Section 69 - Compliance with Building Code of Australia

Any building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA), pursuant to Section 61 of the EP&A Reg and can be conditioned as part of any development consent granted for the DA.

4.4 State Environmental Planning Policies

4.4.1 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Chapter 4 of this state policy applies to the whole of the State. The object of this chapter is to provide for a Statewide planning approach to the remediation of contaminated land. In accordance with the provisions of clause 4.6(1) of this state policy, Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in it contaminated state (or will be suitable, after



remediation) for the purpose for which the development is proposed to be carried out. This amending DA would not alter any of the previous conclusions drawn with respect to land contamination.

4.4.2 State Environmental Planning Policy (Sustainable Buildings) 2022

In accordance with the provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022, a BASIX Certificate has been provided. The proposed development satisfies the requirements of the Certificate in terms of water, thermal comfort and energy efficiency.

4.4.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter 2 of this state policy applies to the non-rural areas of the State inclusive of the subject local government area and aims to:

- (a) protect the biodiversity values of trees and other vegetation in non-rural areas of the State and*
- (b) preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

The proposal does not necessitate to any further tree removal.

4.4.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Division 5 - Electricity Transmission or Distribution

Subdivision 2 - Development likely to affect electricity transmission or distribution network

2.48 Determination of development applications—other development

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
- (c) installation of a swimming pool any part of which is—*



- (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
- (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*
- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must–*
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

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

Subject to rereferral and consideration of any response, the proposal is capable of satisfying the provisions of this SEPP.

Division 15 Railways

2.99 Excavation in, above, below or adjacent to rail corridors

The proposal seeks to undertake excavation greater than 12m in proximity to the Sydney Trains line in order to construct basement car parking levels for the proposed development. However, this excavation was considered as part of the preceding approval by way of a deferred commencement condition. This deferred commencement condition was addressed and the consent was deemed activated on 25 March 2022. This amending DA would not alter the previously drawn conclusions relevant to Part 2.99 of the SEPP.

2.100 Impact of rail noise or vibration on non-rail development

(1) This section applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration–

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital*
- (d) an educational establishment or centre-based child care facility.*



(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

This application is accompanied by an acoustic report prepared by Acoustic Logic.

The assessment concludes that the proposed development is capable of achieving the noise attenuation criteria where relevant to the development subject to the recommendations detailed within the report being adhered to.

The proposed development is therefore capable of satisfying the provisions of Clause 2.100 of TISEPP.

Division 17 - Roads and Traffic

Subdivision 2 - Development in or adjacent to road corridors and road reservations

2.118 Development with frontage to classified road

(1) The objectives of this section are—

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.



This clause applies to development with frontage to a classified road. In this regard, Princes Highway is identified as a Classified Road and therefore, this provisions of this clause apply to this development.

As detailed in the accompanying traffic report prepared by TTPA, the development has been projected to generate similar vehicle movements per hour, as per the preceding approval, during commuter peak periods. Such a peak hour additional traffic generation during commuter peaks, is not projected to, in itself, result in any unreasonable impacts on the existing operational performance of the surrounding local road network. In this regard, the extent of additional traffic is not projected to measurably impact the existing operational performance of the Princes Highway.

Further, the proposed site access management from Fox Lane is maintained and therefore, the nature, volume and frequency of vehicles utilising Fox Lane hwy to obtain access to the subject site, will not unreasonably compromise the effective and ongoing operation and function of the Princes Highway.

In terms of the emission of smoke or dust from the development, measures will be put in place during the construction phase mitigating the extent of any construction generated smoke and or dust emissions. Additional consent conditions may be imposed in this regard.

Having regard to the commentary above, the proposed development is capable of satisfying the relevant provisions of Clause 2.118 of the SEPP.

2.119 Impact of road noise or vibration on non-road development

This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) *residential accommodation,*
- (b) *a place of public worship,*
- (c) *a hospital,*
- (d) *an educational establishment or centre-based child care facility.*

The subject site is located along Princes Highway, requiring that a mandatory assessment be undertaken in accordance with the SEPP.

The application is accompanied by an acoustic report prepared by Acoustic Logic.

This assessment concludes that the proposed development is capable of achieving the noise attenuation criteria where relevant to the development subject to the recommendations detailed within the report being adhered to.

The proposed development is therefore capable of satisfying the provisions of Clause 2.119 of TISEPP.



4.4.5 State Environmental Planning Policy (Housing) 2021

Chapter 4 - Design of Residential Apartment Development

The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes–

- (a) to ensure residential apartment development contributes to the sustainable development of New South Wales by–
 - (i) providing socially and environmentally sustainable housing, and*
 - (ii) being a long-term asset to the neighbourhood, and*
 - (iii) achieving the urban planning policies for local and regional areas,**
- (b) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*
- (c) to maximise the amenity, safety and security of the residents of residential apartment development and the community,*
- (d) to better satisfy the increasing demand for residential apartment development, considering–
 - (i) the changing social and demographic profile of the community, and*
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,**
- (e) to contribute to the provision of a variety of dwelling types to meet population growth,*
- (f) to support housing affordability,*
- (g) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*
- (h) to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

(2) This chapter recognises that the design of residential apartment development is significant because of the economic, environmental, cultural and social benefits of high quality design.

Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following–

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) the Apartment Design Guide,*
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Division 1 of the Environmental Planning and Assessment Regulation 2021, subclause 29, outlines that a development application that relates to a residential apartment development must be accompanied by a statement by a qualified designer.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

The statement must–

- (a) verify that the qualified designer designed, or directed the design of, the development, and
- (b) explain how the development addresses–
 - (i) the design principles for residential apartment development, and
 - (ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.

These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions. An assessment of the proposed development, against these design principles and the Apartment Design Guide (ADG) criteria is contained in the Verification Statement prepared by *Place Studio* which has been separately submitted and forms part of this development application.

In summary, the proposed development provides a positive contribution to its locality in terms of its design quality, the internal and external amenity it provides and an increase in housing choice and stock in the area.

Furthermore, the proposed development is consistent with the aims and relevant provisions of the ADG. In terms of how the proposal responds to the relevant design criteria specified in the Apartment Design guide, this has also been prepared by *Place Studio* and accompanies the Verification Statement (separately submitted).

Overall, the proposed development achieves an acceptable level of compliance with the critical provisions of the Apartment Design Guide as detailed in **Table 4** below.

ADG	Objective	Design Criteria	Achieves Design Criteria												
3D: Communal and public open space	Communal open space to enhance residential amenity, encourage a range of activities, be visually appealing and to provide opportunities for landscaping. Communal open space should be designed to maximise safety.	25% of site area (minimum) Minimum of 50% direct sunlight for a minimum of 2 hours between 9am and 3pm on 21 June (mid- winter)	Yes The extent of communal open space across the development equates to 529m ² or 40.5%.												
3E: Deep soil zones	To provide areas on the site that allow for and support healthy plant and tree growth.	<table><tr><td>Less than 650m²</td><td>-</td><td>7%</td></tr><tr><td>650m² – 1,500m²</td><td>3m</td><td></td></tr><tr><td>Greater than 1,500m²</td><td>6m</td><td></td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td><td></td></tr></table>	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		Merit The extent of deep soil planting proposed is 60m ² or 4.5%.
Less than 650m ²	-	7%													
650m ² – 1,500m ²	3m														
Greater than 1,500m ²	6m														
Greater than 1,500m ² with significant existing tree cover	6m														



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

3F-1 Visual Privacy	"Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and visual privacy".	Up to 12m (4 storeys)	6m	3m	Yes Refer to the discussion in Part 5.2.5 of the SEE.
		Up to 25m (5-8 storeys)	9m	4.5m	
		Over 25m (9+ storeys)	12m	6m	
4A: Solar Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	70% of total apartments (minimum) A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.			Merit The development results in 53 of the 59 apartments receive the requisite amount of solar access between 9 am and 3:15pm mid-winter. Expressed as a percentage, this equates to 73%.
4B: Natural Ventilation	To maximise natural cross ventilation for comfortable indoor environments	60% of total apartments (minimum)			Yes The development results in 38 of the 59 apartments capable of being natural cross ventilated. Expressed as a percentage, this equates to 64%.
4C: Ceiling Height	Improve internal dwelling amenity.	Habitable rooms	2.7m		Yes All proposed apartments will comprise of areas that comply with the ADG Part 4C requirements.
		Non-habitable	2.4m		
		For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area		
		Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope		
		If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use		
		These minimums do not preclude higher ceilings if desired.			



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

4D: Apartment Size	The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.	<table><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Yes All proposed apartments will comprise of areas that comply with the ADG Part 4D requirements.				
Studio	35m ²														
1 bedroom	50m ²														
2 bedroom	70m ²														
3 bedroom	90m ²														
4E: Private Open Space and Balconies	Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	<table><tr><td>Studio apartment</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartment</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartment</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartment</td><td>12m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Studio apartment	4m ²	-	1 bedroom apartment	8m ²	2m	2 bedroom apartment	10m ²	2m	3+ bedroom apartment	12m ²	2.4m	Yes The ADG objectives for Apartment size are achieved in the proposal. All apartments comply with the minimum primary area criteria and most of the apartments have private open space areas that exceed the minimum area requirement.
Studio apartment	4m ²	-													
1 bedroom apartment	8m ²	2m													
2 bedroom apartment	10m ²	2m													
3+ bedroom apartment	12m ²	2.4m													
4G: Storage	Adequate, well designed storage is to be provided in each apartment	<table><tr><td>Studio apartment</td><td>4m²</td></tr><tr><td>1 bedroom apartment</td><td>6m²</td></tr><tr><td>2 bedroom apartment</td><td>8m²</td></tr><tr><td>3+ bedroom apartment</td><td>10m²</td></tr></table>	Studio apartment	4m ²	1 bedroom apartment	6m ²	2 bedroom apartment	8m ²	3+ bedroom apartment	10m ²	Yes All proposed apartments will comprise of storage areas that comply with the ADG Part 4G requirements.				
Studio apartment	4m ²														
1 bedroom apartment	6m ²														
2 bedroom apartment	8m ²														
3+ bedroom apartment	10m ²														

Table 4: ADG core compliance summary



4.6 Local Environmental Plans

4.6.1 Bayside Local Environmental Plan 2021

The Bayside Local Environmental Plan 2021 (BLEP 2021) applies to the subject site which is identified as being within Zone MU-1 –Mixed Use Zone. The proposed development is best characterised as a **“mixed use development”** containing commercial promises and a residential flat building both of which are permissible forms of development in the zone.



Figure 5: Zoning map extract
Source: E Planning

The objectives of the MU1 – Mixed Use Zone are as follows:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

The proposed development is consistent with the objectives of the zone. A summary of our assessment of the proposed development against the LEP provisions is detailed below. Some clauses with the LEP have been deliberately omitted because they are not applicable to the proposed development.

Clause	Provision	Proposal	Comply
PART 2 – Permitted or Prohibited development			
2.6	Subdivision – Consent Requirements	The proposal does not seek consent for any form of land subdivision.	N/A
PART 4 – Principal Development Standards			
4.3	Height of Buildings The development is subject to the provisions of Clause 4.3, which as indicated on the associated “Height of Buildings” Map, limited the height of buildings to 34m.	 Figure 6: HoB map extract Source: E Planning The proposed development has a maximum height of 34.435m which exceeds the 34m height limit. A Clause 4.6 Variation Request is provided as Annexure A which substantiates the height departure.	Merit
PART 5 – Miscellaneous Provisions			
5.10	Heritage Conservation	The subject property is not listed as an item of local heritage significance, is it located within a Heritage Conservation Area nor is it located in proximity to an item of relevance.	Yes
PART 6 – Additional Local Provisions			



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

6.1	Acid Sulfate Soils The objective of this clause is to ensure that development does not disturb, expose of drain acid sulfate soils.	The subject site has been identified as being affected by Class 5 Acid Sulfate Soils on the ASS Map. The extent of approved site excavation is not being materially altered as part of this application. The proposal relies on the previous conclusions drawn with respect to Acid Sulfate Soils whereby the provision of an Acid Sulfate Soils Management plan is not warranted in the circumstances of this application.	Yes
6.2	Earthworks This clause seeks to ensure earthworks would not have a detrimental impact on any environmental functions or existing built environments. It also prescribes that earthworks are required for most earthworks.	The extent of excavation proposed as part of this amending application remains commensurate with that previously approved and deemed acceptable on site. In any regard, any excavated material is understood to be virgin material and highly unlikely to be contaminated given the long standing use of the site for residential purposes. It is anticipated that standard conditions of consent will be imposed in relation to land contamination and disposal of excavated material. Where proposed earthworks occur within or close to the zone of influence of neighbouring structures, specific excavation and earth retention methods will be implemented to ensure structural integrity of adjacent buildings is not compromised. It is considered unlikely that the site, which for the most part has been relatively undisturbed, contains relics or any items of historic significance. Should any such item be encountered during site preparation works, excavation will cease immediately and the appropriate government authority notified. It is anticipated that a standard condition of consent will be imposed in this regard. The site is not in proximity to, nor are earthworks likely to have any detrimental impact on groundwater, drinking water catchment or environmentally sensitive area.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

		Sediment and erosion controls will be installed and maintained for the duration of site preparation and construction phases to ensure there is no risk of sediment laden water leaving the site and entering council's drainage infrastructure. Excavation techniques which focus on minimising disturbance resulting from noise and vibration transmission will be implemented. Sediment and erosion controls will be installed and maintained for the duration of site preparation and construction phases. In this regard, the proposal will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	
6.3	Stormwater and water sensitive urban design (2) Before granting development consent to development on any land to which this Plan applies, the consent authority must be satisfied that— (a) water sensitive urban design principles are incorporated into the design of the development, and (b) riparian, stormwater and flooding measures are integrated as part of the development, and (c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways, receiving waters and groundwater systems, and (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland,	The application is accompanied by stormwater plan, pump calculations and management report prepared by Mance Arraj. This plan has been designed with the intent of ensuring that any stormwater generated by the building will be designed in accordance with the relevant provisions of this clause.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

	waterways receiving waters and groundwater systems, and (e) the development is designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water.		
6.7	Airspace Operations (1) The objective of this clause is to protect airspace around airports. (2) The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the <i>Airports Act 1996</i> of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	The Inner horizontal surface relevant to the site is 51m (AHD). The maximum proposed building height, alongside the telecommunications infrastructure that's sited atop of the building, is sited below this IHS.	Yes
6.10	Design Excellence (2) This clause applies to the following development— (b) development involving the erection of a new building or external alterations to an existing building on land shown edged heavy black on the <u>Design Excellence Map</u>.	The subject site has been identified on the Design Excellence Map.	Yes
Design Excellence Assessment (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—			
	(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The building will present as a modern architectural design with a strong emphasis on visual identity and contextual integration. The building siting and form responds to the context and desired character while the range in materiality employed across the development will accentuate its key features.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

(b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,	The development will provide for a high quality built form which addresses the streetscape and provides for a number of façade undulations, vertical and horizontal articulation, balcony design and fenestration. The building has a strong presentation to its Princes Highway frontage across the lower levels while the upper six residential building levels have been additionally recessed into the built form for the purpose of breaking up any strong level of built form verticality.	Yes
(c) whether the development detrimentally impacts on view corridors,	The siting, scale and built form relationship the development will have with both neighbouring properties and public domain, will not result in any visual impediment to established view corridors.	Yes
(d) the requirements of any development control plan made by the Council and as in force at the commencement of this clause,	The proposal has been designed in response to the prescribed control provisions of the DCP. This is discussed in more detail in Section 4.7.1 of this SEE.	Yes
(e) how the development addresses the following matters— (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity, (viii) the achievement of the principles of ecologically sustainable development, (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,	The subject site is zoned MU-1 Mixed Use where missed commercial/residential buildings are a contemplated form of development. The proposal represents a high quality building designed in response to Council's controls and the desired future character of both the immediate and broader Precinct context. The land does not contain any impediments which could preclude the ability for this development to be carried out while there are no proximate heritage items whose value could be compromised as a result of the proposal. The siting, scale and setbacks of the development is generally reflective of Council's prescribed DCP controls pertaining to this Precinct. It is noted that the building height is for most part, compliant with the prescribed height standard, albeit, a minor departure does result to the roof elements servicing the communal open space which has been	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

(x) the impact on, and any proposed improvements to, the public domain, (xi) achieving appropriate interfaces at ground level between the building and the public domain, (xii) excellence and integration of landscape design.	substantiated in the accompanying Clause 4.6 variation request (Annexure A). More generally, the building will provide for several façade undulations, vertical and horizontal articulation, balcony design and fenestration all of which will work in conjunction so as to ensure the building identifies as appropriately scaled, and a desired 'fit' for the locality. The development also successfully mitigates the potential for unreasonable amenity impacts to arise across neighbouring properties. Accompanying this application are detailed plans/reports/analysis relevant to overshadowing, wind and BASIX certificate which identify the proposal ability in achieving the required targets. The proposal seeks to maintain vehicular access/egress from the site directly from Fox Lane which as described in the accompanying traffic impact assessment prepared by TTPA, will adhere to the RMS guidelines and Australian Standards. A pedestrian entry point is maintained from Fox lane which directs occupants/visitors along a ramped path into a generously sized circulation lobby. The provision of high quality landscaping is proposed primarily across the Princes Highway frontage, which also includes public domain improvements in the form of new path and tree planting and communal rooftop. A detailed landscaping plan prepared by <i>Vision Dynamics</i> accompanies the application. In brief, the landscape resolution for the site will comprise of trees, shrubs and grasses all of which will soften the built form and improve the landscaped character of the streetscape
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Statement of Environmental Effects
401-405 Princes Highway, Rockdale

(5) Development consent must not be granted to development to which this clause applies unless— (a) if the development is in respect of a building that is, or will be, higher than 12 metres or 3 storeys (or both) but not higher than 40 metres or 12 storeys (or both)— (i) a design review panel has reviewed the development, and (ii) the consent authority takes into account the findings of the design review panel, or	The Design Review Panel will be required to review the subject DA.	Yes
6.11 Essential Services Before determining a DA, this clause requires the consent authority to be satisfied that essential utilities would be available to the proposal.	The subject site is currently serviced by water, electricity, sewer as well as direct vehicular and pedestrian access services, as required by the clause. Where necessary, such services can be upgraded to meet any additional demands generated by the proposal.	Yes

Table 5: BLEP 2021 compliance table



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

4.7 Development Control Plans

4.7.1 Bayside Development Control Plan 2022

On 27 August 2021, the Bayside Local Environmental Plan 2022 was made. This DCP has been prepared in accordance with Part 3, Division 3.6 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
Part 3 - General principles for development			
3.1 Site Analysis and Locality			
3.1.1 Site Analysis Plan	Development Applications are to include a Site Analysis which includes both a sketch/diagrammatic Site Analysis Plan and a written component.	A site analysis plan forms part of the architectural plan detail set prepared by Place Studio.	Yes
3.1.2 Interface with Public Domain	Buildings are to be designed to: a. have a clearly defined entry point; and b. address the street, side street, rear laneway or any adjacent parks and/or public spaces	A clearly defined building entry point is observed across the frontage of the development as it presents to Fox Lane	Yes
	The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity and equitable access.	A defined entry lobby that provides for residential access into the building is nominated in a centrally located position along Fox Lane. We have been informed that access can be provided equitably which was demonstrated in the accompanying Access Report prepared by east coast.	Yes
	For mixed use development which contains residential dwellings, the principal usable part of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	This design outcome has been achieved.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	Public domain improvement works such as footpath paving, reconstruction of kerb and gutter, landscaping, street trees, amenity area lighting and furniture may be required at the developer's expense.	A consent condition, if deemed applicable, may be imposed which formalises this requirement.	Yes
	Comfortable public places with high-quality public furniture, good shade and interesting outlooks within the public domain and open space shall be provided.	A consent condition, if deemed applicable, may be imposed which formalises this requirement.	Yes
	Developments are to be designed so that required services and infrastructure (e.g. hydrants) that interface with the public domain are considered and integrated into the built form design at development assessment stage.	A consent condition, if deemed applicable, may be imposed which formalises this requirement.	Yes
3.1.3 Crime Prevention through Environmental Design	CPTED principles are to be addressed in all development applications where there is the potential to minimise risk and improve safety.	Refer to the discussion in Part 5.4 of this SEE.	Yes
	Larger development applications (as outlined below) are to be supported by a Safer by Design Assessment Report.		
3.1.4 Active Street Frontages	Where active street frontages are required, development is to: · identify landscaping, street paving and furniture etc along the active street frontage · orientate and program active uses on the ground floor to maximise the visual amenity for outdoor seating opportunities · provide a minimum width of 2 metres on a public footpath that is clear of any	While an active street frontage is not prescribed for redevelopment of the site, the proposal does seek to undertake public domain improvement works in the form of a new footpath and street tree planting works.	N/A



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	obstructions or structures for pedestrian access.		
3.1.5 Views	Development must consider any significant vistas or views to, from and across the site including those which contribute to the character, identity, or sense of place of the site.	The siting and locational characteristics of the land are such that any views to, from and across the site will remain in accordance with that envisaged for the zone.	Yes
3.2 Design Excellence			
	Development is to give consideration to the principles of design excellence as outlined within Clause 6.10 of Bayside Local Environmental Plan 2021 and within Council's Design Excellence Guidelines.	Refer to previous LEP discussion addressing Design Excellence.	Yes
3.3 Energy Review and Sustainability			
	The design of buildings should follow the general principles of 'green building design' to reduce consumption of non-renewable energy sources and thereby: • use energy efficiently • minimise the use on non-renewable energy • reduce the peak demand on energy supply systems • reduce greenhouse gas emissions • reduce the use of potable water • make buildings more comfortable for occupants all year round • reduce energy bills and the lifecycle cost of energy services.	The proposal is accompanied by a Basix Certificate prepared by Gradwell Consulting which demonstrates a commitment to sustainability.	Yes
3.5 Transport, Parking and Access			
3.5.1 Design of the Parking Facility	Off-street parking facilities, including carports, are generally not permitted within the front setback due to the impact on streetscape and landscape character. Driveways/hardstands and carports encroaching into the	The proposal retains parking provision, albeit in an altered form, across the building basement/s consistent with the intent of this control.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	minimum front boundary setback may be considered for single dwelling houses in circumstances where: a. the hardstand or carport is to serve a single dwelling house (not permitted for any other form of residential development); b. there is no opportunity to provide off street parking from a rear lane, side street, or behind the required front setback; c. the hardstand or carport is for a single vehicle and is no larger than 3m in width, 6m in length and 3m in height if a flat roof, or 3.6m if a pitched roof; d. the design is sympathetic to the host dwelling and the existing streetscape, in regard to materials, scale, form, roof style and the predominant setbacks of similar structures; e. the carport does not include enclosing walls, or a solid panel or roller shutter door; f. gates do not encroach upon public g. land during operation and a minimum length of 5.5m is available so that a parked vehicle does not overhang the front boundary; and h. all other requirements of this DCP are met, including landscaping requirements.		



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	For mixed use development, residential on-site parking areas are to be clearly separated from parking areas associated with other uses by installation of a security roller door or boom gate.	A clear demarcation is provided between the commercial and residential spaces within the development. Commercial spaces alongside visitor spaces are provided on Basement 01 while residential spaces are provided within Basement 02 and below.	Yes
	The design/width of the access driveway shall minimise the loss of on-street parking and be as per with Bayside Technical Specification - Traffic, Parking and Access.	There is no off-street car parking at the front of the site.	Yes
	Off-street parking facilities are to be designed in accordance with current Australian Standards (AS2890 parking series).	We have been informed that the proposed access to and from nominated parking spaces have been designed in accord with the relevant standards. This is affirmed in the accompanying traffic report prepared by TTPA.	Yes
	<u>Vehicular Access</u> A maximum of one vehicular access point is permitted per property.	A single vehicular access point is provided from within the south-western corner of the site from along Fox Lane.	Yes
	The following developments shall be designed with internal manoeuvring areas so that vehicles can enter and exit the site in a forward direction: · Developments with four or more dwellings/car spaces · Childcare centres & boarding houses · Developments with vehicle access to/from a classified road · Industrial & commercial development · Developments with basement car parking accessed via a steep ramp	The proposal has been designed so that all required vehicular movements are capable of being carried out internally and in a forward direction.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	Where council considers it necessary due to the site-specific circumstances.		
	Vehicular access is to be provided from a secondary street frontage or rear lane, where possible.	Vehicular access is proposed to be provided off Fox Lane being the only available location. No secondary access is afforded to the subject site.	Yes
	Adequate sightlines are to be provided for pedestrians on the footpath as per Australian Standards.	The accompanying traffic impact assessment report prepared by TTPA affirms that sightlines across the development are reflective of the relevant AS provisions.	Yes
	<u>Pedestrian Access</u> Pedestrian entrances and access within a development must be legible and separated from vehicular access paths.	The proposed pedestrian entrance into the development is both legible and offers a clear level of demarcation between it, and the vehicular access driveway located at the south-western edge of the site.	Yes
	Car parks must provide a direct and safe pedestrian access to a building's entry and exit (well-lit and free of concealment opportunities).	This design outcome has been achieved.	Yes
	Pedestrian access routes between car parking and other public areas are to provide: - co-ordinated signage - lighting - security - direct paths of travel with stairs and - disabled access ramps - protected from vehicular aisles and - manoeuvring areas by bollards - for childcare centres, the parent - drop off/pick up spaces are to be provided with a minimum 1.5m dedicated pedestrian link connecting to the child	A consent condition may be imposed that formalises this requirement.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	care centre entrance which does not protrude into, and is protected from, the vehicular manoeuvring areas for laneways, where possible provide a minimum 0.9m laneway setback for the extension of the public footpath covered by a right of footway easement.		
	A Traffic and Parking Impact Assessment Report is to be prepared and submitted for development.	A Traffic and Parking Impact Assessment report prepared by TTPA accompanies this application.	Yes
3.5.3 On-Site Parking Rates	Various rates for car parking	The proposal provides for 93 spaces that exceeds the 78 spaces required by the DCP.	Yes
3.5.4 Bicycle and Motorcycle Parking	Bicycle & motorcycle parking must be provided on site as follows: Residential Flat Building: 1 bicycle space per dwelling (for residents) 1 bicycle space per 10 dwellings (for visitors) 1 motorcycle space per 15 car spaces Commercial Premises (Business Premises, Office Premises, and Retail Premises): 1 bicycle space per 150sqm GFA 1 bicycle space per 400sqm GFA - provided for visitors c. 1 motorcycle space per 15 car spaces	The proposal provides for the requisite number of motorcycle and bicycle parking spaces across the development.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
3.5.5 Accessible Parking	Accessible car parking spaces for people with a mobility impairment are to be included in the allocation of car parking for a development and provided in accordance with the rates specified in Table 4 of the DCP.	A compliant level of accessible parking has been provided across the development.	Yes
3.5.7 Waste Collection	- Waste collection must be provided on-site within new building development (excluding development with less than 600m² GFA and multi-unit developments with 10 dwellings or less). The waste collection point is to be designed to: - allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps - provide sufficient side, rear and vertical clearance to allow for the waste collection activity to be undertaken (e.g. the lifting arc for automated bin lifters requires clearance to remain clear of any walls or ceilings and all service ducts, pipes and the like). - comply with Bayside Technical Specification - Traffic, Parking and Access. - Waste rooms are to be located as close as possible to the waste collection point. Where this cannot be provided for and waste rooms are spread out across the basement of a development, a method to internally transport waste to the collection point is to be	Separate commercial and residential bin storage areas are identified at ground level. A bulky waste storage area is also proposed at this level. A loading dock is provided within the north-western corner of the ground floor enabling on site waste pickup. This application is accompanied by a Waste Management Plan (WMP), prepared in accordance with Council's Technical Specifications. The WMP details waste management during the construction phase of the development.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	provided.		
3.6 Social Amenity, Accessibility and Adaptable Design			
3.6.1 Accessibility	- The siting, design, and construction of premises available to the public are to ensure an appropriate level of accessibility, so that all people can enter and use these premises. - All development must comply with the following: all Australian Standards relevant to accessibility; the Building Code of Australia access requirements; and Disability Discrimination Act 1992. Complex developments where compliance is proposed through alternative solutions must be accompanied by an Access report prepared by a suitably qualified access professional. - Ensure all publicly accessible buildings provide a safe and continuous path of travel for people with impaired mobility. - A high standard of women's facilities, amenities for parents in both women's and men's toilets and amenities for people with disability (i.e. lift and change facilities) in buildings available to the public. - Where heritage impact is used as a reason for not providing equitable access in accordance with this Section, evidence is to be provided that no suitable alternatives for access are available. - Required egress routes in	Refer to the accompanying Access Report prepared by East Coast Accessibility accompanying this application.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	residential development are to allow for safe escape		
3.6.2 Adaptable Dwellings and Universal Housing	A minimum 20% of total dwellings in new multi dwelling housing, shop top housing and residential flat buildings containing 10 or more dwellings must be adaptable dwellings and designed and constructed to a minimum Class C Certification under AS 4299 Adaptable Housing.	The proposal provides for the required number of adaptable dwellings.	Yes
3.6.3 Social Impact	Where a Social Impact Assessment is not required, social impacts are to be addressed in the Statement of Environmental Effects (SEE) accompanying a development application. At a minimum, the Statement of Environmental Effects is to consider: · the potential social impacts; · the scale of those impacts; · the likely extent of those impacts including when and where they might occur; · outcomes of any discussions with affected people or groups; and · any measures to maximise the positive impacts and eliminate or minimise negative impacts.	Refer to the discussion in Part 5.7 in address of this control.	Yes
3.7 Landscaping, Private Open Space and Biodiversity			
3.7.1 Landscaping	Development must comply with Council's Technical Specification – Landscape and documentation is required to be submitted in accordance with Schedules – Chapter 9.3 of this DCP.	The proposal is accompanied by a landscape plan prepared by Vision Dynamics.	Yes
	For all development the layout and design of driveways, pedestrian entries and services maximises	The proposal does not necessitate the removal of any significant trees and or vegetation. Tree removal albeit minor, is offset	Yes



Bayside Development Control Plan 2022																
Design Solution	Requirements	Proposed	Y/N													
	deep soil and retention of existing trees and planting of new trees.	by the extent of additional tree planting as detailed in the landscape plan prepared by Vision Dynamics.														
	The minimum amount of landscaped area within the site is as follows: <table><tr><th>Development Type</th><th>Min. landscaped area (of the site area)</th></tr><tr><td>Low and medium density residential</td><td>25%</td></tr><tr><td>Residential flat buildings</td><td>15%</td></tr><tr><td>Mixed use (with shop top housing)</td><td>10%</td></tr><tr><td>Highway commercial</td><td>10%</td></tr><tr><td>Industrial</td><td>10%</td></tr><tr><td>Child care centres</td><td>20%</td></tr></table>	Development Type	Min. landscaped area (of the site area)	Low and medium density residential	25%	Residential flat buildings	15%	Mixed use (with shop top housing)	10%	Highway commercial	10%	Industrial	10%	Child care centres	20%	The extent of landscaping provided across the site fails to comply with the prescribed minimum; however, this is largely the result of the characteristics of the site in a town centre and the need to provide for an active frontage at ground level alongside all necessary access and servicing which limits the extent of landscaping capable of being provided. Importantly, the proposal seeks the provision of high utility landscaping across the Princes Highway frontage which will be provided in combination with public domain planting improvements. Landscaping is also provided to the communal open spaces which will serve to vastly improve the amenity of these spaces.
Development Type	Min. landscaped area (of the site area)															
Low and medium density residential	25%															
Residential flat buildings	15%															
Mixed use (with shop top housing)	10%															
Highway commercial	10%															
Industrial	10%															
Child care centres	20%															
3.7.2 Planting Design and Species	A minimum of 80% of a planting scheme proposed on deep soil is to consist of native or indigenous plants. Locally indigenous species, are to be incorporated where practical and suit the microclimate conditions.	Refer to the accompanying landscape plan prepared by Vision Dynamics.	Yes													
3.7.3 Communal and Private Open Space	Private Open Space – General Private open space is to: a. be clearly defined for private use through planting, fencing or landscape features; b. predominantly face north, east or west to maximise sunlight access; c. sited and configured to maximise visual and acoustic privacy of its occupants and neighbours; d. should be located adjacent to the	The development provides for areas of private open space to each apartment that are consistent with the ADG provisions.	Yes													



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	living room, dining room or kitchen to extend the living space.		
	<u>Communal Open Space</u> Communal open space at the rate of 5m2 per dwelling is to be provided for multi dwelling housing with 12 or more dwellings.	Part 6A of SEPP 65 (1)(c) identifies common circulation and spaces which includes communal open space and therefore, development control plan provisions that specify requirements, standards or controls in relation to this matter have no effect.	N/A
3.7.4 Public Open Space Interface Controls	Where possible, highly used habitable rooms such as living rooms should be located and oriented to overlook adjoining public open space and non-habitable rooms should not be located to face adjoining public open space.	The development includes the provision of a number of apartments that will encompass a view over and across the public domain/s. The commercial premises at ground level will also provide a direct relationship with the Princes highway and Fox Lane interfaces.	Yes
3.9 Stormwater Management and Water Sensitive Urban Design			
	All development is to be consistent with Bayside Technical Specification Stormwater Management relating to stormwater management and WSUD.	The proposal is accompanied by a detailed stormwater plan, music modelling and management report all of which have been prepared by Mance Arraj.	Yes
3.12 Waste Minimisation and Site Facilities			
	Development is to be consistent with Council's Waste Management DCP Technical Specification 2022 and all development applications are required to submit a Waste Management Plan consistent with this Technical Specification.	The proposal is accompanied by a waste management plan prepared by Elephants Foot.	Yes
	A waste and recycling storage area for each dwelling must be located on the relevant lot in a position	Waste storage areas are located at ground level of the building. These areas include separated storage rooms catering to the residential, commercial and bulky storage	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	convenient for both users and waste collection personnel.	needs of the development. A loading bay is also provided within the north-western corner of the ground floor plate which will enable waste servicing operations to be carried out on site.	
5.2.5 Shop Top Housing and Mixed Use			
Development is to comply with Bayside LEP 2021 controls related to Active Street Frontages. Development includes display windows with clear glazing to ground floor retail and commercial premises with a maximum window sill height of 700mm. Glazing is not to be frosted or otherwise obscured at eye level; between the heights of 0.7-2.1m.		The subject site is not identified on the Active Frontages Map. However, commercial uses are nominated across the ground level of the building while the only residential component relates to the entry located along the southern façade off Fox Lane.	Yes
All ground floor lobbies are to have direct visual connection with the street, with clear sight lines.		All nominated lobbies are afforded with a direct visual connection with the public domain.	Yes
Development siting and design provides appropriate consideration of: - access and parking - pedestrian access and circulation, including any lifts or stairwells - refuse storage and disposal - noise and vibration - odour, in particular from flues and - other devices used to disperse emissions from food preparation facilities - general air quality		The development appropriately responds to the setting with respect to the corresponding matters. Access for vehicular purposes is provided off Fox Lane where there will be little to no conflict with the pedestrian access points into the building. Waste storage is also provided at ground level where it will be afforded with ease of transfer to the Loading Bay which is provided with direct access from Fox Lane. Noise generation from the use of the building will be controlled in accordance with the recommendations detailed in the accompanying acoustic report prepared by Acoustic Logic.	Yes
Residential development above the ground- floor is to comply with the controls for high- density residential development in the Apartment Design Guide and Section 5.2.4 of the DCP.		The site-specific Rockdale Town Centre controls prevail. These are discussed in address of Part 7.2 below. However, where 7.2 is silent on specific matters, the controls prescribed within 5.2.4 have been brought into discussion where they relate to this development form.	✓



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
All overhead wires (including electrical and telecommunication services) fronting the site are to be relocated underground		A consent condition may be imposed formalising this requirement.	✓
Mixed use buildings must have appropriate floor to floor and floor to ceiling heights for ground and level 1 to maintain flexibility for future use and adaptiveness. The following floor to ceiling heights must be achieved:	- Ground floor and first floor – 3.3m - Residential floors above 2.7m	The proposed building is capable of achieving the prescribed internal floor to ceiling levels.	✓
Part 7.2 - Rockdale Town Centre			
7.2.5.1 Site Amalgamation			
Development is to comply with the relevant amalgamation patterns outlined below.  Figure 7: Amalgamation Pattern Source: BDCP2022		The site is identified on the amalgamation Map. The relevant pattern is met. Yes	



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
7.2.5.2 Built Form			
Building massing and articulation including street wall heights and setbacks are to be provided in accordance with the relevant sections of this DCP.		The DCP prescribes a tower, height, orientation and massing distribution of a four (4) storey street wall to Princes Highway alongside a three (3) storey form to Fox Lane and to the rear. A nine (9) storey or less built form scale is also identified for the site. The proposal incorporates a four (4) storey scale to the Princes Highway alongside recessed succeeding floor setbacks to the upper levels. No street walls height podiums are proposed along either Fox Lane or to the rear which is consistent with the current approval. The proposal also incorporates a ten (10) storey scale with rooftop communal that is commensurate with the likely form outcome where a 34m prescribed height is made available to the land. It is noted that a number of elements breach this maximum height' however, these are related to the rooftop communal open space and the accompanying Clause 4.6 variation request provided in Annexure A, substantiates the nature and extent of departure/s. More generally, the proposed setbacks serve to maintain an active interface at ground level while the form, siting and massing of the development is deemed conducive to and a desirable representation of the transitioning context. The proposed setbacks, more relevantly at the upper additional building levels, enable the orderly provision of residential dwellings with high levels of amenity within a town centre consistent with the control	Merit



Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
		objective that seeks to increase the number of people living in mixed use developments within centres. In terms of the tower forms, these generally maintain a 3m setback from the street interfaces, noting that a minor encroachment is maintained at the southern side façade as a result of the required Fox Lane widening. The uppermost components the building being level 10 and the communal rooftop space, are recessed to varying degrees, into the preceding form of the development beyond the four (4) storey wall height addressing Princes Highway.	
	Towers/ taller portions of buildings (above 9 storeys) are to be slender and orientated to avoid presenting its longest face to the public domain particularly along Princes Highway, Railway Street and King Street.	Floor to ceiling heights across the development have been designed in accordance with the provisions set out in 4C of the ADG.	Yes
	The maximum building length should not exceed 45m above the street wall or 60m below the street wall.	The overall building lengths do not exceed this prescribed control.	Yes
	Within each development, towers, podiums and private open space are to be sited so that adjoining sites retain development potential and amenity.	The proposal maintains a built form distribution that is consistent with the preceding development approval across the lower building levels. This design outcome will not give rise to any adverse implication with regards to neighbouring property redevelopment.	Yes
Street Wall Height			
	Street wall heights are to be in accordance with Figure 30	The proposal maintains the established street wall height to the Princes Highway as established by the preceding approval (DA-2016/150)	Yes
Setbacks			
	Setbacks are to be provided in accordance with Figure 31 and the relevant sections of this DCP. In doing so, a 3m setback is	The proposal maintains the established setbacks at the lower levels which have informed the siting of the floorplates at	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	required to the Princes Highway while a 6m setback (from lane centreline) is required from along Fox Lane.	the upper proposed levels. In brief, the additional levels maintain a 4.15m minimum setback to the balconies along the Princes Highway. Along Fox Lane, a 5.15m setback to the centre of the laneway is maintained.	
Building and Façade Design			
	Ensure building façades are well resolved, and proportioned with an emphasis on the human scale by:		
	Reflecting and responding to the orientation of the site using elements such as sun shading and other passive environmental controls where appropriate.	A number of sun shading devices are implemented across the building.	Yes
	Providing building articulation such as expressed vertical circulation, well designed roof form, shading devices and balconies.	A generous amount of building articulation has been provided in the form of differentiated materiality, fenestration, balcony protrusions and façade modulation.	Yes
	Containing roof forms, building services and screening elements within the overall height controls and fully integrating those elements with the architectural concept.	The uppermost Level of the building alongside a number of required building services exceed the overall building height controls. The nature of the variation alongside the formal variation request is provided within Appendix A accompanying this SEE.	Yes
	Facades should respond to the location and hierarchical role of the building within the context of the town centre by:		
	Expressing street corner locations by giving visual prominence to parts of the façade such as varied building materials and colours, articulation, or well-designed roof form.	The siting, scale and expression of the built form acknowledges the characteristics of the site having regard to the two (2) street frontages. A varied array of materiality and visual built form expression forms part of the design intent that will in turn, afford both visual interest and prominence to certain aspects of the development.	Yes
	Responding sympathetically to the existing natural and constructed character defining features of the Town Centre (historic and emerging urban markers) including the Town Hall and Library buildings, the	The building has been designed in a manner that will facilitate an appropriate level of built form transition which will arise upon the	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
Guild Theatre, the train station, rock outcrops, significant trees and vegetation clusters. Building and façade design should improve amenity by: · Providing articulated facades and edges which are modelled to maximise solar access and privacy to existing and future residents. · Providing appropriate space for outdoor dining and include articulation/façade treatment to retain amenity of residential above, facilitating the development of a night-time economy. · Where in proximity to a heritage item, using appropriate materials, finishes and façade design and providing a bulk and scale which is sympathetic to the heritage item. · Minimising extensive expanses of blank, glass or solid walls. · Where development presents blank walls or incorporates a party wall that will be visible from the public domain (irrespective of whether that could be hidden by any future adjoining development), using high quality materials, textures and variations in alignment consistent with the street façade. Reliance upon surface effects with no depth is not acceptable · Along laneways, the whole podium will have a direct relationship with the lane and be composed to create interest and engage with laneway users. · Providing a definite edge to open spaces with an internal layout and façade design with encourages interaction between occupants of the building and the street. Building activity visible from the open space is to add sense of vibrancy and create further visual interest · Integrating entries to basements and servicing such as substations, mailboxes, booster valves into the building design.		redevelopment of the other sites within this component of the Town Centre. As described throughout this SEE, the extent of overshadowing likely to be cast by this development is not inconsistent with that envisaged within a prominent location within a Town Centre where denser and taller building forms are envisaged. Noting that this development proposal heavily relies on the established floor plate arrangements across the lower levels, the new works alongside the established built form response/s, do not present with any notable extent of unadorned and or unarticulated facades. Along the Princes Highway frontage and for part of the Fox Lane frontage, the ground floor commercial component of the building will have a direct relationship with users promoting continual engagement along both the primary and secondary street frontages. In terms of building services, these are generally contained within the basement or suitably integrated into the ground floor plate (i.e substation to Fox Lane) so as not to adversely impact the private/public domain street interface.	Yes



Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
7.2.5.3 Public Domain			
Development is to comply with the standards for ground floor building uses and access locations set out in the following table for all street frontage types, which are shown in Table 19 and Figure 32. The subject site, more specifically the Princes Highway frontage, is identified in Figure 32 as having a centre edged mixed use function. The controls pertaining to this street role are as follows: - Active retail uses on the ground floor frontage, preferably along Princes Highway and open space - Mixed use (commercial/residential) on the ground in other street frontages - Access to residential lobbies should be from this frontage - Ground floor residential with direct street access - Vehicle access permitted where the development does not front a Service Laneway - Service access permitted where the development does not front a Service Laneway		The proposal maintains an active retail use at ground level along the Princes Highway that returns along the Fox Lane frontage. While residential access is not provided into the building from along the Princes Highway frontage and is maintained off Fox Lane, this is deemed a far more superior outcome noting that Fox Lane is the deeper frontage and the alternative would compromise on the active retail/commercial presence and function of the building.	Yes
Along <i>Activated Frontages</i> and/or where predominantly retail/ commercial uses are provided: - All developments are to face the street and/or public open spaces. Main building entries to be located along the streets. - Entries to active frontage tenancies are to be accessible and at the same level as the adjacent footpath. - Conserve the existing fine grain character of the precinct through built form elements and architectural expression. - Awnings are to be provided to the full extent of the frontages. - The design of active street frontages must not incorporate security roller doors and window bars. - The use of frosted screens or opaque glass is discouraged.		Entries into the commercial components are provided directly off the Princes Highway. Entry into the residential component is provided directly off Fox Lane. The Access report prepared by East Coast confirms that access into the commercial premises at ground level is capable of complying with the relevant standards. The proposal also includes the provision of an awning along the Fox Lane frontage.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
- Integrate artworks into the design of private developments, in publicly accessible locations such as main entrances, lobbies, street frontages, gardens, walls and rooftops. - Design is to facilitate outdoor dining particularly along open spaces, King Street, Walz Street, surrounding the station, and punctuated along Princes Highway where further protected from the Highway e.g. within setbacks at street level and wide corners.			
7.2.5.4 Building Typologies (Mixed Use)			
- Provide a range of appropriately sized and configured tenancies that meet commercial, or market needs to avoid large (>100m²) floorplates that may remain vacant. - Incorporate non-retail uses such as gymnasiums, childcare centres, community facilities and medical suites that service the local residential and worker population. - Ensure that the location of ground floor uses either activates or provides surveillance to the public domain. - Provide awnings to active street edges. - Create clear legible entries for each use.	The development includes the provision of two (2) commercial tenancies that range in size from 121m² to 125m². These uses will be subject to future development applications. The extent of fenestration provided to these commercial uses will facilitate both street surveillance and private/public domain engagement. Clear and legible entries are provided to all aspects of the development at ground level while the proposed awning along Fox Lane, will provide year-round weather protection.	Yes	
7.2.5.5 Site Access and Servicing			
- Access to parking, servicing and loading should be provided at the rear of the building, or via laneways. On corner sites, access should be provided from secondary streets provided the entrance facilities are well integrated into the rest of the frontage. - Servicing and loading must be accommodated internally within the building. - Pedestrian access should always be prioritised for the safety and enjoyment of residents and visitors.	Access to both the basement and loading bay is maintained from along the driveway access into the site off Fox Lane. All servicing is capable of being accommodated within the building. Only one vehicular entry/exit point is proposed to the development which is well separated from the commercial and residential entries.	Yes	



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
	- The number and width of vehicle access points should be minimised to avoid conflicts between pedestrians and vehicle traffic. - No on site loading bay is required for developments with less than 1000 m2 of retail space. - Where no loading bay is provided on site, all retail tenancies are to have access to a street or lane with a marked loading bay, either directly or via a common retail servicing space separate from the residential basement parking area. - Where garbage trucks are required to enter the site for the collection of residential/commercial waste, developments should be designed to accommodate on-site truck movement	As described in the waste management report prepared by Elephants Foot accompanying this application, waste will be managed wholly within the site by way of a private contractor.	
Parking	- Underground parking structures should not encroach into the required landscape buffers above ground to ensure the long-term viability of mature trees and vegetation. - Where underground parking structures must unavoidably encroach beyond the building footprint or into a landscape buffer, a minimum depth of 1m of uncompacted soil should be provided below grade to support opportunities for tree planting and other landscaping along the streetscape.	Given the context and the need to provide for tighter setbacks across the ground level of the building, the provision of deep soil landscape areas is not deemed conducive to this type of development located within a dense urban environment. Having said this, a 3m largely unencumbered deep soil zone is provided along the Princes Highway frontage which will enable the provision of landscaping that will contribute to the amenity of the highway interface and "Green Gateway" outcome as envisaged by the controls.	Yes
Waste Storage and Recycling Facilities	Ensure that residential flat buildings and mixed use buildings have a communal Garbage and Recycling Room located in the basement of the building. This area should: be capable of accommodating Council's required number of standard waste containers and should be designed in accordance with Council's Technical Specification - Waste Minimisation and Management	Waste areas have been nominated at ground level. Independent waste areas are proposed to cater to both the commercial and residential components of the development. The residential components of the building are serviced by way of an internal garbage chute system.	✓



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
II. provide additional space for the storage of bulky waste, such as clean-up materials awaiting placement at the kerb, or recycling. In buildings more than three storeys in height, provide a system for the transportation of garbage from each floor level to the Garbage and Recycling Room(s) such as a garbage chute system. Where such facilities are proposed, provide space on each floor for storage of recyclables, preferably adjacent to the lift well. Details of the garbage chute system should be provided with the Development Application.		A bulky waste storage area has also been nominated.	
Service Lines/Cables			
- Developments are required to have all overhead cables on all frontages of the development site relocated underground (this includes all electricity cables, telecommunication cables etc.), - Redundant poles should be removed, and underground street lighting columns should be installed. - The undergrounding and installation of street lighting is to be at no cost to Bayside Council.		A consent condition may be imposed formalising these requirements.	Yes
7.2.5.6 Urban Greening			
- Landscaping should be considered holistically in the early design stages of a development to inform the building design. Retrofitting landscaping elements should be avoided to completed building designs as this can result in poor outcomes that may not be viable. - All landscaping should be regularly maintained and should not impact on the safety of public and private areas. Hardy and resilient species should be selected in an urban environment to ensure that all landscaping and vegetation is viable.		Refer to the accompanying landscape plan prepared by Vision Dynamics accompanying this application.	Yes



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Bayside Development Control Plan 2022			
Design Solution	Requirements	Proposed	Y/N
Communal Open Space and landscape Design			
The density and intensity of develop envisaged in the Centre means that opportunities should be sought to utilise space within developments for communal use with soft landscaping to improve the amenity for residents and the character of the Centre. - Minimum communal open space is to be provided as required by the Apartment Design Guide. - At least 50% of the communal open space should be soft landscaping. - Refer to Part 4.3.3 Communal Open Space for design specifications. - All soft landscaping areas in a development must have access to Greywater or Rainwater to meet their watering needs.		The development seeks the provision of two (2) independent areas of communal open space located on Level 01 and Level 09 of the building. In combination, these areas exceed the ADG minimum requirements.	Yes

Table 6: Bayside Development Control Plan 2022 compliance table



5. ENVIRONMENTAL IMPACT ASSESSMENT

This chapter includes an assessment of the environmental effects of the proposed development as described in the preceding sections of this report. The assessment includes those matters under section 4.15(1) of the EP&A Act that are relevant to the proposal.

5.1 Built Environment

5.1.1. Height, Bulk and Scale

The configuration of the building in association with the succeeding recessed levels above the street wall height(s), will facilitate the provision of a built form, siting, scale and spatial relationship between the subject and neighbouring developments which will continue to reinforce the emerging character of the precinct. Potential adverse impacts from building bulk have been controlled through building setbacks, the use of vertical and horizontal design elements, extensive modulation, varied materials, finishes and colours and other unique facade features. The development has utilised façade indentations and extrusions for the purpose of providing visual depth and in conjunction with vertical/horizontal elements, balcony articulation and fenestration, provides for a greater degree of visual interest.

5.2 Public Amenity

5.2.1. Views and Visual Impact

The proposal demonstrates optimum capacity of the site to accommodate a built form that minimises the loss of views from neighbouring buildings, particularly within the context of the area being in transition to higher density forms of development, as well as in consideration with the planning controls applicable to the subject site. The proposed development achieves good balance between minimising views and benefitting from the planning controls applicable to the site, providing a high quality built form which bears limited impact on distant views and or view corridors.

Accordingly, in our opinion, the proposal is appropriate in respect of views.

With regards to visual impact, the built form incorporates a mixture of architectural elements which are supplemented by a diverse mix in building materiality designed to reflect more subtle neutral and or naturalistic colours and tones. The building acknowledges the desired human scale relationship with the introduction of a distinguished building outcome, differentiated into a number of varying components, all of which serves to strengthen the form of the building while reducing the extent of its perceivable scale across all levels.



5.2.2 Overshadowing

Overshadowing diagrams have also been prepared in support of this DA. They show the anticipated shadow impact of the proposed development on itself, the surrounding public domain and surrounding properties.

Overshadowing impacts within the development site are inevitable and unavoidable, but the proposal has been designed and laid out to ensure maximum solar penetration is achieved. The proposed additional storeys generate some further overshadowing to adjoining properties across site boundaries; however, the overshadowing impacts to adjoining and surrounding properties are somewhat inevitable given the applicable planning controls (i.e. – available height and density) as well as the orientation of the proposed development in relation to surrounding buildings. On balance, the overshadowing impacts are considered acceptable given the high density setting and controls for the area.

5.2.3 Building and Construction

A final Construction Management Plan will be prepared by the appointed contractor, once the terms of any approval granted by Council are known. Accordingly, it is anticipated that Council will include appropriate conditions within any consent notice requiring the preparation and approval of a CMP prior to works commencing.

5.2.4 Aural Privacy

The design and layout of the proposal has been designed to maximise aural and visual privacy for residents of neighbouring sites. Acoustic privacy is about preventing sound transmission between external and internal spaces, between apartments and communal areas, and apartments and external spaces. The building has been designed to orient private and communal open spaces and noise sensitive rooms in such manner that will not result in an unreasonable impact to the acoustic privacy of adjoining properties and will in turn afford acoustic privacy to the occupants of the building.

5.2.5 Building Separation and Visual privacy

The ADG in Part 3F contains objectives and design criteria relating to separation for habitable and non-habitable rooms to achieve visual privacy between dwellings within an apartment development and from neighbouring dwellings. It is worth noting that in address of visual privacy, the provisions of SEPP, more specifically Part 3F of the ADG override that of the DCP controls. The Design Criteria for visual privacy states:

Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

Table 3 ADG Building Separation Requirements		
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

Consideration needs to be given to whether the proposed setbacks of the proposal will satisfy the underlying objectives which seek to minimise overshadowing, visual impact, acoustic privacy and visual privacy. These matters are addressed individually below:

Visual Privacy

Visual privacy allows residents within an apartment development and on adjoining properties to use their private open spaces without being overlooked. Therefore, amenity is improved through establishing minimum distances between both current and envisaged land uses. While the proposal does not strictly adhere to the setback requirements as prescribed by the ADG, it does so in a manner that mitigates any impacts resulting from these numerical shortfalls. Specifically, the design incorporates a number of treatments all of which will serve to ensure that the extent of privacy offered to neighbouring properties, and any future residents likely to reside within the subject development, will remain at acceptable levels.

Despite to in part numeric non-compliance, the proposed building additions seeks to mitigate the potential for any flow on privacy impacts in the following manner:

- The proposal maintains an identical level of separation as deemed acceptable for the preceding approved levels which was already considered to be an appropriate contextual response.
- The Princes Highway, Fox Lane and Rail corridor to the rear, provide for additional spatial relief between built forms;
- Primary balconies and glazing associated with each apartments living spaces have been oriented towards the Princes Highway, Fox Lane and or the rail corridor to the rear providing for increased levels of reciprocal privacy benefit between the subject and neighboring development/uses.

As identified above, Planning Circular PS17-001 identifies that *"the ADG is not intended to be and should not be applied as a set of strict development standards"*. Rather, the ADG provides objectives, design criteria and design guidance on how residential development proposals can meet the Housing SEPP principles through good design and planning practice. The proposal is consistent with the Housing SEPP design quality principles, as outlined in the Housing SEPP Design Statement prepared by Place Studio. As such, the non-compliance with the ADG building separation distance should not be a determinative matter.

Further, the proposal is considered to achieve the objective of the visual privacy / building separation criteria which is as follows: *"Adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy."* The layout and design of the proposed apartments and balconies will ensure the visual privacy of neighbouring



development is reasonably maintained and a suitable relationship is achieved. The proposal has been architecturally designed to minimise any opportunities for overlooking to the side and rear boundaries, particularly with the use of highlight windows and the use of privacy screening. These measures will serve to remove opportunities for overlooking and mitigate any visual privacy impacts ensuring the development and the adjoining developments both current and future are afforded reasonable levels of privacy.

In summary, it is considered that the variation to the visual privacy / building separation distances outlined in the ADG is appropriate due to the following:

- the ADG is a guideline only and not a set of strict development standards, and therefore non-compliance with the building separation distance should not be a determinative matter;
- the proposal is consistent with the Housing SEPP design quality principles which is the key determinative matter;
- a pattern of reduced setbacks is typical of a higher density urban environment, particularly where a site fronts a major arterial road;
- increased setbacks and building separation have been incorporated into the proposal where possible for portions of the building; and
- the proposal achieves the objective of the visual privacy / building separation criteria and allows for reasonable levels of privacy to be maintained.

5.3 Natural Environment

5.3.1 Tree Removal/Landscaping

This amending DA does not necessitate any additional tree removal. In terms of landscaping, the accompanying landscape plans have been prepared by *Vision Dynamics* and have been updated to reflect the changes sought to the approved building. The essence of the landscaping regime has not been materially changed and remain generally consistent with the approved development. The rooftop communal open space incorporates landscaping around the perimeter of the space to create a pleasant environment and offer screening opportunities to enhance visual privacy.

5.3.2 Water/Wind Management

There would be no substantive changes to the approved development with respect to water management. An updated Stormwater Drainage Plan has been prepared and accompanies this amending DA. Furthermore, wind impacts are deemed to remain as acceptable, and the current proposal is not deemed to generate any significant additional wind flow to neighbouring properties. This has been confirmed in the accompanying wind assessment report prepared by ANA Civil.

5.3.3 Demolition and Construction Management

Prior to the commencement of demolition and/or excavation work on site, the following details will be submitted to and be approved by the Principal Certifying Authority:



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

- i. Plans and elevations showing distances of the subject building from the site boundaries and the location of adjoining buildings.
- ii. A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
- iii. An Excavation Work Method Statement prepared by an appropriately qualified person.
- iv. A Waste Management Plan for the demolition and or excavation of the proposed development.

These statements will, where applicable, be in compliance with *AS2601-1991 Demolition of Structures*, the *Construction Safety Act 1912* and *Demolitions Regulations*; the *Occupational Health and Safety Act 2000* and *Regulation*; applicable *Council Policies for Waste Minimisation*, the *Waste Avoidance and Resource Recovery Act 2001*, and all other relevant acts and regulations, and will include provisions for:

- i. A Waste Management Plan for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
- ii. The name and address of the company/contractor undertaking demolition/excavation works.
- iii. The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
- iv. The name and address of the transport contractor.
- v. The type and quantity of material to be removed from site.
- vi. Location and method of waste disposal and recycling.
- vii. Proposed truck routes, in accordance with this development consent.
- viii. Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
- ix. Measures to control noise emissions from the site.
- x. Measures to suppress odours.
- xi. Enclosing and making the site safe.
- xii. A certified copy of the Public Liability Insurance indemnifying Council for \$10,000,000 against public prosecution for the duration of the demolition works.
- xiii. Induction training for on-site personnel.
- xiv. Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to Work Cover Authority.
- xv. An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.
- xvi. Disconnection of utilities.
- xvii. Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

- xviii. Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
- xix. Waterproofing of any exposed surfaces of adjoining buildings. Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
- xx. Working hours, in accordance with this development consent.
- xxi. Any Work Cover Authority requirements.

Demolition and/or construction works include temporary fencing, hoarding and warning notices required to conduct the works and protect the general public. All construction and building work will be adequately managed so as to minimise disruption to the local community and the environment. Noise generated by construction activities will comply with the Council's standard construction times and conditions.

5.3.4 Air and Microclimate

Some dust is anticipated during the construction period. This impact can be managed through measures such as wetting down work areas/stockpiles, stabilising exposed areas, preventing material tracking out onto public roadways, covering loads on all departing trucks and working to weather conditions. The proposal is otherwise not expected to give rise to any long term or adverse impacts on local or regional air quality. A final CMP will be provided by the builder, once appointed, prior to the issue of the Construction Certificate. The proposal is otherwise not expected to give rise to any long term or adverse impacts on local or regional air quality.

5.3.5 Waste Management

Waste rooms servicing the varying components of the development are provided at ground level. A loading bay accessed via the internal driveway will enable all bin pick up services to be carried out on site. Waste management operations relevant to the development have been detailed across the accompanying waste management report prepared by Elephants Foot accompanying this application.

5.3.6 Soil and Erosion Control

The works have the potential to create adverse impacts to water quality, vegetation and result in erosion and sedimentation. These include:

1. Stormwater Drainage Infrastructure Inlets
2. Construction Exit Protection
3. Downstream Site Boundaries
4. Sediment Runoff

The following mitigation measures are proposed to minimise adverse environmental impacts:

- Sandbag protection to be installed surrounding existing stormwater drainage infrastructure inlets to prevent sediment entering the system.
- Shaker grid and wash down facility will be installed at all exists from the construction site.



- All vehicles leaving the site will have wheels washed down and pass over the shaker grid to remove any spoil collected.
- Installation of sediment fences on all downstream boundaries to collect sediment and prevent it from discharging onto downstream properties.

Additionally, impacts from earthworks will be managed in accordance with a Construction Management Plan to be developed by the contractor prior to the issue of a Construction Certificate. The plan is likely to contain the following mitigation procedures to manage sedimentation and impacts from soil disturbance:

- Bunding of sediment basins and siltation fencing to be installed;
- Stockpiles of soil to be bunded, covered and wet-down to limit impacts from dust;
- Works to be not occur during times of high wind events or prior to major storms;
- Excess cut material is to be transported from site as soon as practicable after completion and
- All excavation works should be undertaken in accordance with an approved staging / scheduling plan which is regularly updated by the site manager; and
- Site fencing is to be maintained around the perimeters to restrict access to the general public.

5.4 Environmentally Sensitive Design

The NSW Land and Environment Court has established six principles for Ecologically Sustainable Development (ESD):

1. *The principle of sustainable use;*
2. *The principle of integration;*
3. *The precautionary principle;*
4. *Inter-generational and intra-generational equity*
5. *Conservation of biological diversity and ecological integrity*
6. *Internalisation of external environmental costs*

The proposals consistency with the principles of ESD is provided below:

Sustainable Use

The construction and ongoing operational use of the development will need to be mindful of incorporating sustainable and renewable materials so as to limit its impact on the environment. This includes the use of sustainable building materials, the considered storage, treatment and recycling of waste and water, as well as the use of energy efficient appliances to conserve electricity.

Integration

The principle of integration is founded in properly considering and balancing the economic and environmental outcomes of development. In other words, the economic drivers behind a development should not compromise the achievement of environmental outcomes. The Applicant is an established developer. Whilst the proposed development will be underpinned by the achievement of certain



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

economic outcomes, the proponent is committed to ensuring environmental efficiencies throughout the construction and operational phases. These include (but are not limited to):

- Utilising sustainable building materials;
- Incorporating resilient landscaping, water and building materials;
- Delivering design outcomes that decrease reliance on power for heating and cooling; and
- Managing waste such that materials can be efficiently recycled and re-used.

Precautionary Principle

The proposal is unlikely to cause any serious, irreversible or damaging impacts to the natural environment. This application has suitably demonstrated principles and methods of ensuring impacts are avoided and instilling a level of confidence that the building can developed in a considered way. Any damaging impacts will be identified with clear mitigation measures to reduce impacts if needed.

Inter and Intra Generational Equality

This principle requires that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations. In the first instance, the development proposed is of significant benefit to the current and future generations in that it delivers high quality residential apartments that serve the growing precinct. The development will be undertaken having consideration for the highest standards and procedures for building and land use currently available. The use of new technologies, services and infrastructure has been and will continue to be investigated to ensure the longevity of the building and proposed uses within.

Conservation of biological diversity and ecological integrity

The Applicant is committed to sourcing and utilising sustainable materials, particularly those that are naturally sourced and are renewable.

Internalisation of external environmental costs

This principle requires the consideration of environmental costs in the short- and long-term operation of the development and services. The Construction and Operational Management Plans to be provided at the Construction Certificate and Occupation Certificate stages respectively, will include environmental goals to limit impacts and costs to the environment. These goals will need to be regularly assessed and solutions to improve reductions to environmental impacts should continually be revised and updated.



5.5 Crime Prevention

Crime Prevention through Environmental Design (CPTED) is an important inter-agency crime prevention program that reduces crime opportunity through effective planning, urban design and place management. The NSW Police Service program, known as Safer by Design is based on the principles of CPTED.

The Department of Planning & Environment (then Planning NSW) released guidelines under Section 4.15 of the *Environmental Planning and Assessment Act, 1979* which have been prepared to assist councils in identifying crime risk and minimise opportunities for crime through appropriate assessment of development proposals.

The Guidelines uses Crime Prevention through Environmental Design (CPTED) which is a crime prevention strategy and focuses on reducing the opportunities for crime through the planning, design and structure of the built environment. This is achieved through:

- Maximising the risk to offenders through increasing the likelihood of detection and challenge;
- Maximising the effort require to commit an offence;
- Minimising the perceived benefits of crime; and
- Minimising the opportunity to facilitate inappropriate behaviour.

Part B of the Guidelines set out four principles to be used in the assessment of development applications to minimise the opportunity for crime, as follows:

Surveillance

Providing effective surveillance of areas within and surrounding a site can assist in reducing the attractiveness of crime targets. Surveillance of an area can be achieved through both natural and technical means.

Passive surveillance, where people can see what others are doing, creates a sense of safety within an environment and provides opportunities for interaction between individuals. This and high levels of passive surveillance, deters offenders from committing crime.

The landscape treatment for the development has been designed in cognisance of the need to maintain good levels of passive surveillance and allow safe movement of pedestrians around / across the site. The main pedestrian entry/lobby is oriented towards the southern boundary; however, numerous living rooms, kitchens and balconies of the apartments are oriented towards both Princes Highway and Fox lane. This ensures maximum opportunity for casual surveillance of the pedestrian footpath and roadway. Site lighting will be installed to satisfy the relevant Australian Standards and provide a high degree of lighting throughout the publicly accessible areas of the development.



Access Control

By clearly defining areas accessible to the public and providing physical and symbolic barriers to attract and channel the movement of people, it will be difficult for offenders to reach victims and opportunity to commit crime will be minimised.

Electronic "Access Control" in the form of an audio intercom will be provided at the entry to the residential lobby to provide secure access to the residential apartments. A remote controlled garage door will control access of vehicles to the basement car parking areas.

Territorial Reinforcement

Defining what is public and private territory assists in determining the function of a space and the appropriate behaviour within a space. This definition enhances the informal security presence within and around the site. Territorial reinforcement is achieved through the creation of a "*sphere of influence*" around a building by utilizing physical designs such as pavement treatments, landscaping and signage that enable users of a building or an area to develop a sense of proprietorship over it.

Whilst the Guidelines specifically refer to public spaces, the principles can be applied to the proposed development. In this regard, the demarcation between the public domain and private property is clearly defined by the footpath along both the Princes Highway and Fox lane frontage.

Space Management

Neglected and/or poorly maintained buildings and/or areas are often more susceptible to criminal activities such as vandalism.

Again, the Guidelines specifically refer to public spaces. Nevertheless, the building manager / management committee will ultimately be responsible for the management and maintenance of the public domain and communal private spaces of the development.

5.6 Movement and Access

A transport and parking assessment has been undertaken by *TTPA*. This assessment demonstrates that there would be no adverse additional impacts upon the road network and there is sufficient car parking provision provided within the basement levels.



5.7 Social and Economic Impacts

The proposed development is considered to provide a range of positive social and economic impacts as follows:

- Provides a mix of apartments types to suit a range of people close to high frequency public transport infrastructure.
- Promotes local and state government initiatives in relation to urban growth and densification by increasing the density of residential housing in close proximity to services and facilities.
- Achieves high environmental performance (water and energy) targets.
- Offer an improved urban design and architectural outcome for the site.
- Successful approach to a comprehensive landscape-led design will mitigate impacts of the urban heat island and deliver comfortable public and private open space.
- Establishes a high precedence for surrounding future projects and reinforces the objectives and vision for the precinct developed by Council.
- Creation of thousands of short-medium term jobs in construction of the project across a lifecycle.

5.8 The Public Interest

The development will increase the supply and choice of housing in the locality and will result in an overall improvement in the residential dwelling stock in the locality. Furthermore, the amenity of the adjoining properties will not be detrimentally impacted upon by the proposed development, through various design measures to mitigate overlooking and view impacts. Further, the proposal will provide housing supply in a highly accessible location that is well served by public transport. For these reasons the development is considered consistent with the public interest.



6. CONCLUSION

The relevant matters for consideration under Section 4.15 Evaluation of the Environmental Planning and Assessment Act 1979 have been addressed in this Statement of Environmental Effects and the proposed development has been found to be consistent with the objectives and requirements of the relevant planning provisions.

The proposed development is permitted with development consent within the Mu-1 Mixed Use Zone, pursuant to the Bayside LEP 2021 and is consistent with the objectives of the zone. In particular the development:

- Will provide a range of housing types to meet a growing population in a highly accessible location; and
- Will provide a high level of amenity that contributes towards the vision for the Rockdale Town Centre Precinct.

For reasons outlined in this Statement of Environmental Effects the proposed development is considered worthy of being granted development consent.



Clause 4.6 Variation Request

Residential Flat Building – Amending Development Application

401-405 Princes Highway, Rockdale





1. INTRODUCTION

This Clause 4.6 Exceptions to Development Standards request has been prepared by Bernard Moroz of BMA Urban on behalf of TQM. It is submitted in support of a Development Application (DA) for the redevelopment of the site at 401-405 Princes Highway, Rockdale

Clause 4.3 prescribes a numerical building height limit of 34m over the subject site. The proposed building height departs from this standard as demonstrated in **Part 2** of this variation request.

Clause 4.6 of the *Bayside Local Environmental Plan 2021* (BLEP 2021) enables consent for development to be granted even though it contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

As the following request demonstrates, flexibility may be afforded by Clause 4.6 because compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. This request also demonstrates that the proposal will be in the public interest, as the proposed development will be consistent with the objectives of the development standard and the zoning of the site.

The following sections of the report provide an assessment of the request to vary the development standards relating to **"height of buildings"** in accordance with Clause 4.6 of the *Bayside Local Environmental Plan 2021* ('BLEP 2021').

Consideration has been given to the following matters within this assessment:

- *Varying development standards: A Guide*, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgments issued by the Land and Environment Court. The *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 court judgment is the most relevant of recent case law.

Chief Justice Preston of the Land and Environment Court confirmed (in the above judgment):

The consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..." [15]

On the 'Five Part Test' established under *Wehbe v Pittwater Council* [2007] NSWLEC 827:



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..." [22]

That, in establishing 'sufficient environmental planning grounds', the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole" [26]

That clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development:

"Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard will have a better environmental planning outcome than a development that complies with the development standard."
[88]

This clause 4.6 variation has specifically responded to the matters outlined above and demonstrates that the request meets the relevant tests with regard to recent case law.

In accordance with the BLEP 2021 requirements, this Clause 4.6 variation request:

- identifies the development standard to be varied (**Part 2**);
- identifies the variation sought (**Part 2**);
- Summarises relevant case law (**Part 3**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (**Part 4**);
- demonstrates there are sufficient environmental planning grounds to justify the contravention (**Part 4**);
- Provides a conclusion summarising the preceding parts (**Part 5**).

This Clause 4.6 Exception to a Development Standard should be read in conjunction with the architectural plan detail prepared by Place Studio



2. VARIATION OF HEIGHT OF BUILDING'S STANDARD

As identified in **Table 1**, BLEP 2021 prescribes a maximum building height for the subject site of 34m.

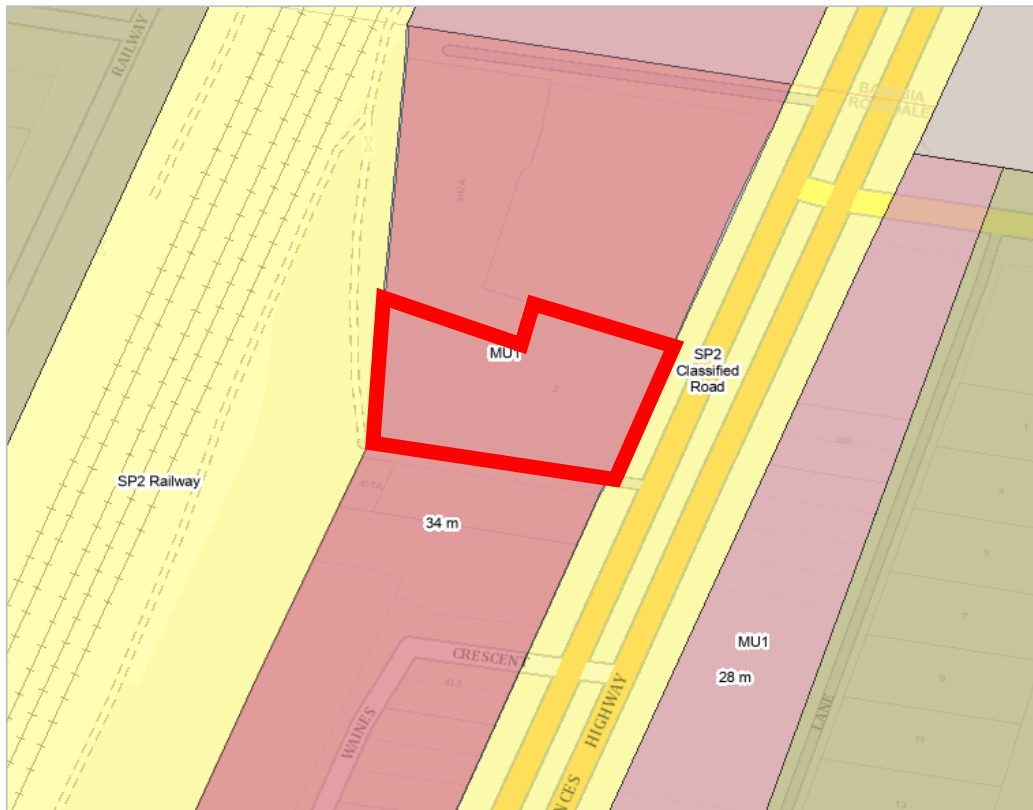


Figure1: Base LEP Height Map
(Source: BLEP 2021)

The proposed variations to building height across the development are reflected in **Figure 2** (Height Overlay). The proposal results in variations from the standard, as follows:

- **Telecommunication utilities:** These breach the prescribed allowable height by 70mm to 170mm.
- **Plant Room:** The plant room located adjacent to the swimming pool breaches the height by 350mm.
- **Central Rooftop Roof -** The roof form located over the lift/s, stairs, WC facilities and circulation area is sited between 70mm and 435mm above the prescribed height.

It is noted that the majority of the building is sited within the allowable height envelope.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

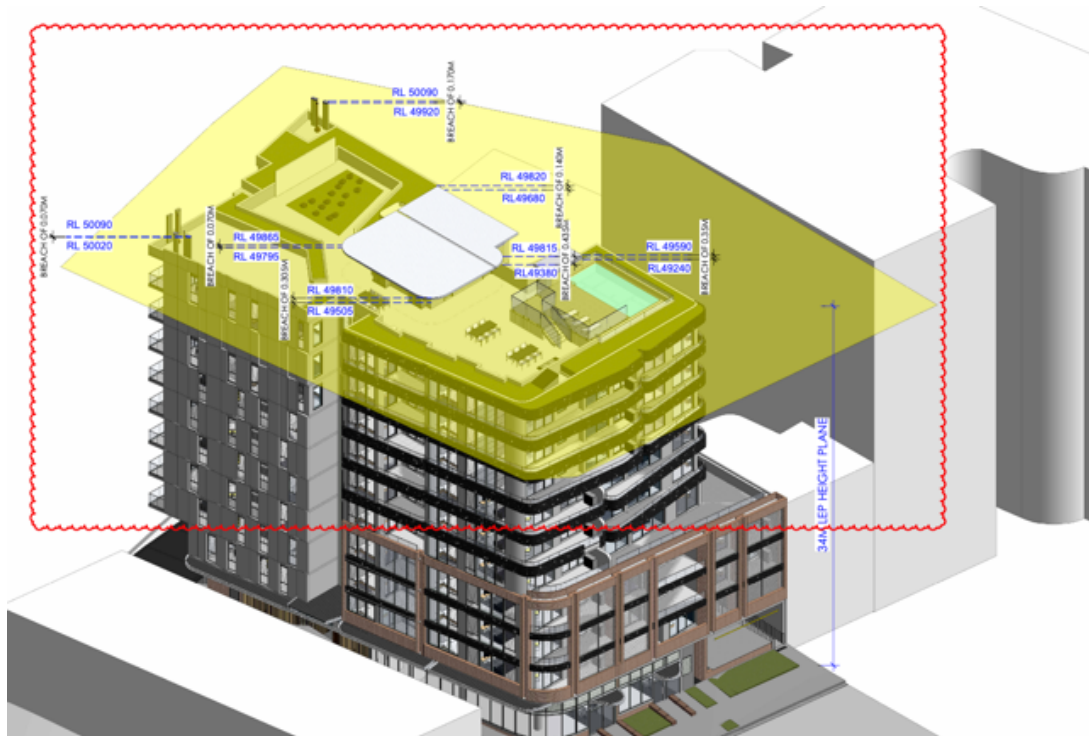


Figure 2: Height Breach Overlay (1)
Source: Place Studio



3. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Clause 4.6 of BLEP includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of BLEP are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

Clause 4.6(4) requires the consent authority keep record of its assessment under subclause (3).

This clause 4.6 request demonstrates that compliance with the height of building prescribed for the site in Clause 4.3 of BLEP is unreasonable, and there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is consistent with the development standard.

In accordance with clause 4.6(3), the applicant requests that the height of building standard be varied.



4. ASSESSMENT OF THE CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to building height in accordance with clause 4.3 of BLEP 2021. Detailed consideration has been given to the following matters within this assessment:

- Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the Land and Environment Court. The following sections of the report provides detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the BLEP 2021.

4.1 CONSIDERATION

4.1.1 Clause 4.6 (3)(a) - Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The common way in which an Applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary is detailed in the 'five-part test' outlined in the *Wehbe v Pittwater* [2007] NSWLEC 827. These tests and case law are outlined in **Section 3** of this request.

Preston CJ identifies 5 options in *Wehbe v Pittwater* [2007] NSW LEC 827 which can be used to analyse whether the application of the standard to a particular building is unreasonable or unnecessary in the circumstances of the case.

Preston CJ at [16] states as follows:

"As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 - Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

In *Wehbe*, Preston CJ identified five ways in which it could be shown that application of a development standard was unreasonable or unnecessary. However, His Honour said that these five ways are not



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways.

The five methods outlined in Wehbe are:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the **First Method. Methods 2 through to and including 5** are not relied upon in the preparation of this variation request.

The objectives of the development standard are achieved notwithstanding the noncompliance (First Method).

The objectives of height of building standard are as follows:

Objectives	Assessment
▪ to ensure that building height is consistent with the desired future character of an area,	The underlying purpose of this objective is to ensure that any future development is designed in a manner whereby any resulting building height will appropriately respond to both the existing and future context in a controlled manner. The proposal demonstrates that the building will visually adapt with that of neighbouring buildings both current and future and that the resulting height breach has been appropriately sited and or integrated into the built form envelope, reducing its visual prominence from



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

	both neighbouring properties and the public domain. A height compliant development would also not be capable of accommodating a well serviced area of communal open space across the roof of the building alongside telecommunication infrastructure without it adversely and unjustly impeding upon envisaged residential yield and density. It is also worth noting that the scale of this development afforded by way of this breach, will facilitate the provision of a built form that is deemed to be more in keeping with the desired future character of the area over that likely to arise out of a wholly compliant scheme. It is therefore our opinion that the siting, scale and relationship the breaching elements will have with neighbouring properties and the public domain/s, the development is not inconsistent with that anticipated to result by way of a compliant scheme. The scale, nature and aspect of the site and in turn breach, enable the proposed building to visually integrate with that of neighbouring building's both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.
to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,	The height breaching elements/components of the building are of a siting, scale and aspect where they will not identify as visually dominant nor jarring to the contextual character. The materiality and overall tone of the breaching component is such that it will present as a visually recessive part of the building that will not adversely contribute to visual bulk but rather, present as a subtle and informed contribution to the composition of the development. It is also pertinent to note that the height breaching elements will not result in an unreasonable level of impact to the extent of available views across the development with respect to distant Sydney CBD and Botany Bay views.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

	In order to determine the extent of additional shadowing likely to be incurred by the part/s of the building that breach the prescribed height, Place have prepared a shadow analysis that forms part of the architectural plan detailed set. This analysis demonstrates the extent of additional impact upon neighbouring properties and the public domain is minimal and will not adversely alter overall solar access outcomes. With respect to privacy, the breaching element/s of the building, will not result in any discernible impacts to the extent of privacy afforded to neighbouring properties and or future residents alike.
(c) to nominate heights that will provide an appropriate transition in built form and land use intensity.	The height breaching elements do not adversely influence the development's ability in responding to the transitional interface and setting noting the evolving character. Having regard to the transitioning contextual character and the anticipated building heights/scales across neighbouring properties once redeveloped, the building height breach maintains an orderly and more responsive contextual outcome, and therefore, the proposal continues to align with this objective despite the height variation.

4.1.2 Clause 4.6 (3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Clause 4.6(3)(b) of the BLEP 2021, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:

"That there are sufficient environmental planning grounds to justify contravening the development standard".

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

standard and not simply promote the benefits of carrying out the development as summarised in (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

The proposed development is supportable on environmental planning grounds for the following reasons:

- The proposal (notwithstanding the LEP contravention), is consistent with the objectives of the development standard as provided in clause 4.3 of the BLEP 2021.
- The shadow diagrams that form part of this variation request demonstrate that the area of height variation will not result in an unreasonable increase to the extent of overshadowing impact on either neighbouring properties or public domain.
- The perception of building height, most notably where it breaches the standard, has been formed in a manner that continues to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At high level, the proposed building successfully mitigates environmental impacts such as overshadowing and visual impact.
- The rooftop elements which breach the height, service a large accessible communal open space sited away from the building edges. In this location, they will remain appropriately integrated into the built form envelope and will not present as features that contribute to the extent of perceivable building bulk. Insistence on compliance with the height control would result in the removal of a number of rooftop elements servicing the COS, which is a disproportionate response to the relatively minor impacts created by these elements.
- The infrastructure which breaches the height, provides for a direct community benefit in terms of servicing the telecommunication needs of the community both local and broader.

The Objects of the Act under S1.3 are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in **the table below** we consider whether the proposed development is consistent with each object.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

The objects of this Act and how this proposal responds to the object are as follows:

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This object is not relevant to this application.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.
(d) to promote the delivery and maintenance of affordable housing,	This object is not relevant to this development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves as a positive influence on the built form environment both existing and likely to emerge upon the redevelopment of building stock.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	Nothing will preclude the proposed development from having the ability to comply with all relevant BCA codes and standards.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	This object is not relevant to this development
(j) to provide increased opportunity for community participation in environmental planning and assessment,	This application will be neighbour notified in accordance with Council's DCP provisions.

Based on the above, the consent authority can be satisfied that there the proposed development remains consistent with the Objects of the Act despite the height non-compliance.

4.1.3. Clause 4.6(4) - The consent authority must keep a record of its assessment carried out under subclause (3).

Bayside Council has a current Clause 4.6 register. Any record of this development and its address of subclause (3) will be required to be uploaded on this register.



5. CONCLUSION

For the reasons set out in this written request, strict compliance with the HOB development standard contained within clause 4.3 of BLEP is unreasonable in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation.

It is reasonable and appropriate to HOB development standard to the extent proposed for the reasons detailed within this submission and as summarised below:

- Compliance with the HOB development standard is unreasonable in the circumstances of the proposed development.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the standard.
- There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- There is an absence of any environmental impacts arising from the proposed variation.

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the HOB development standard should be applied.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

DISCLAIMER

This report incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of BMA Urban Pty Ltd opinion in this report. BMA Urban prepared this report on the instructions, and for the benefit only, TQM (**Instructing Party**) for the purpose of the Statement of Environmental Effects (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, BMA Urban expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, BMA Urban was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to BMA Urban at the date of this report, and upon which BMA Urban relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which BMA Urban has no control.

Whilst BMA Urban has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. BMA Urban (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which BMA Urban relies, provided that such errors or omissions are not made by BMA Urban recklessly or in bad faith.

This report has been prepared with due care and diligence by BMA Urban and the statements and opinions given by BMA Urban in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.



Clause 4.6 Variation Request

Residential Flat Building – Amending Development Application

401-405 Princes Highway, Rockdale





1. INTRODUCTION

This Clause 4.6 Exceptions to Development Standards request has been prepared by Bernard Moroz of BMA Urban on behalf of TQM. It is submitted in support of a Development Application (DA) for the redevelopment of the site at 401-405 Princes Highway, Rockdale

Clause 4.3 prescribes a numerical building height limit of 34m over the subject site. The proposed building height departs from this standard as demonstrated in **Part 2** of this variation request.

Clause 4.6 of the *Bayside Local Environmental Plan 2021* (BLEP 2021) enables consent for development to be granted even though it contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

As the following request demonstrates, flexibility may be afforded by Clause 4.6 because compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. This request also demonstrates that the proposal will be in the public interest, as the proposed development will be consistent with the objectives of the development standard and the zoning of the site.

The following sections of the report provide an assessment of the request to vary the development standards relating to **"height of buildings"** in accordance with Clause 4.6 of the *Bayside Local Environmental Plan 2021* ('BLEP 2021').

Consideration has been given to the following matters within this assessment:

- *Varying development standards: A Guide*, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgments issued by the Land and Environment Court. The *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 court judgment is the most relevant of recent case law.

Chief Justice Preston of the Land and Environment Court confirmed (in the above judgment):

The consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..." [15]

On the 'Five Part Test' established under *Wehbe v Pittwater Council* [2007] NSWLEC 827:



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..." [22]

That, in establishing 'sufficient environmental planning grounds', the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole" [26]

That clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development:

"Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard will have a better environmental planning outcome than a development that complies with the development standard."
[88]

This clause 4.6 variation has specifically responded to the matters outlined above and demonstrates that the request meets the relevant tests with regard to recent case law.

In accordance with the BLEP 2021 requirements, this Clause 4.6 variation request:

- identifies the development standard to be varied (**Part 2**);
- identifies the variation sought (**Part 2**);
- Summarises relevant case law (**Part 3**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (**Part 4**);
- demonstrates there are sufficient environmental planning grounds to justify the contravention (**Part 4**);
- Provides a conclusion summarising the preceding parts (**Part 5**).

This Clause 4.6 Exception to a Development Standard should be read in conjunction with the architectural plan detail prepared by Place Studio



2. VARIATION OF HEIGHT OF BUILDING'S STANDARD

As identified in **Table 1**, BLEP 2021 prescribes a maximum building height for the subject site of 34m.

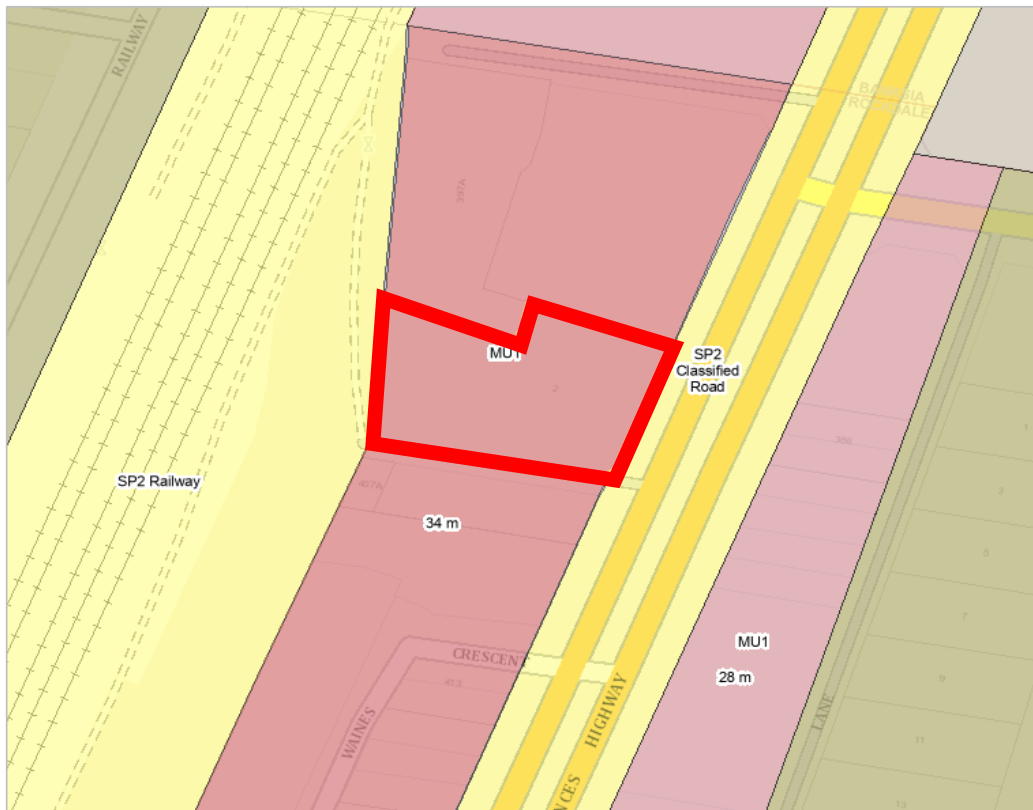


Figure1: Base LEP Height Map
(Source: BLEP 2021)

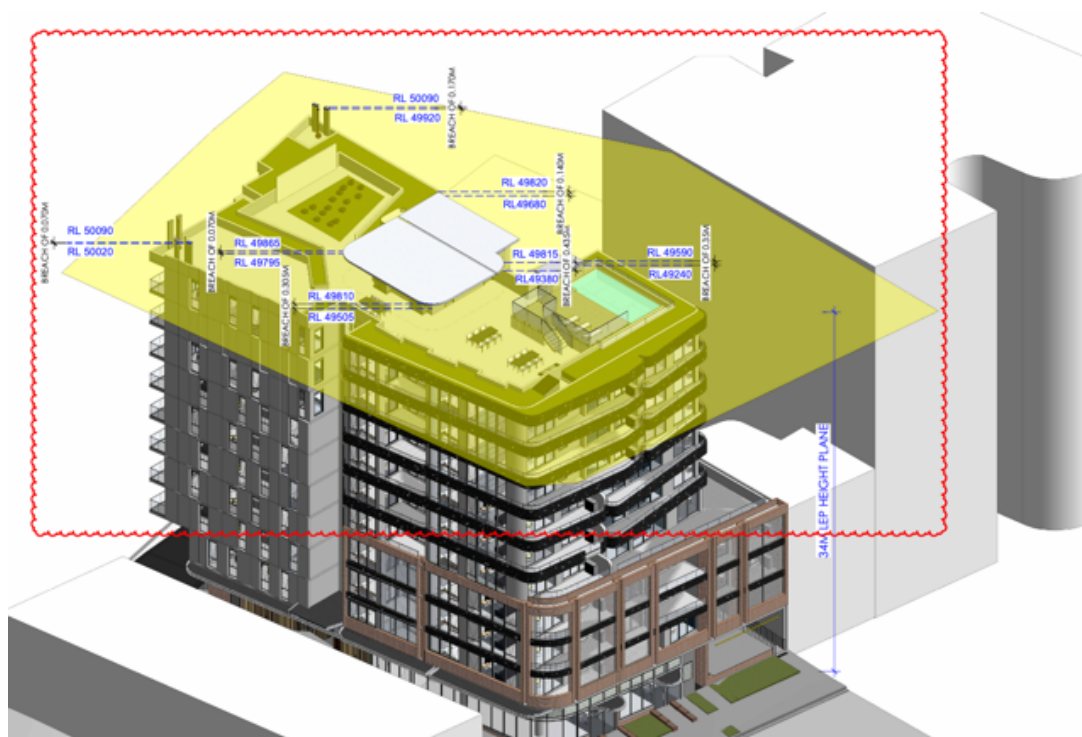
The proposed variations to building height across the development are reflected in **Figure 2** (Height Overlay). The proposal results in variations from the standard, as follows:

- **Telecommunication utilities:** These breach the prescribed allowable height by 70mm to 170mm.
- **Plant Room:** The plant room located adjacent to the swimming pool breaches the height by 350mm.
- **Central Rooftop Roof -** The roof form located over the lift/s, stairs, WC facilities and circulation area is sited between 70mm and 435mm above the prescribed height.

It is noted that the majority of the building is sited within the allowable height envelope.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale





3. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Clause 4.6 of BLEP includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of BLEP are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

Clause 4.6(4) requires the consent authority keep record of its assessment under subclause (3).

This clause 4.6 request demonstrates that compliance with the height of building prescribed for the site in Clause 4.3 of BLEP is unreasonable, and there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is consistent with the development standard.

In accordance with clause 4.6(3), the applicant requests that the height of building standard be varied.



4. ASSESSMENT OF THE CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to building height in accordance with clause 4.3 of BLEP 2021. Detailed consideration has been given to the following matters within this assessment:

- Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the Land and Environment Court. The following sections of the report provides detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the BLEP 2021.

4.1 CONSIDERATION

4.1.1 Clause 4.6 (3)(a) – Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The common way in which an Applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary is detailed in the ‘five-part test’ outlined in the *Wehbe v Pittwater* [2007] NSWLEC 827. These tests and case law are outlined in **Section 3** of this request.

Preston CJ identifies 5 options in *Wehbe v Pittwater* [2007] NSW LEC 827 which can be used to analyse whether the application of the standard to a particular building is unreasonable or unnecessary in the circumstances of the case.

Preston CJ at [16] states as follows:

“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 - Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

In *Wehbe*, Preston CJ identified five ways in which it could be shown that application of a development standard was unreasonable or unnecessary. However, His Honour said that these five ways are not



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways.

The five methods outlined in Wehbe are:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard **(First Method)**.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary **(Second Method)**.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable **(Third Method)**.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable **(Fourth Method)**.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone **(Fifth Method)**.

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the **First Method. Methods 2 through to and including 5** are not relied upon in the preparation of this variation request.

The objectives of the development standard are achieved notwithstanding the noncompliance (First Method).

The objectives of height of building standard are as follows:

Objectives	Assessment
▪ to ensure that building height is consistent with the desired future character of an area,	The underlying purpose of this objective is to ensure that any future development is designed in a manner whereby any resulting building height will appropriately respond to both the existing and future context in a controlled manner. The proposal demonstrates that the building will visually adapt with that of neighbouring buildings both current and future and that the resulting height breach has been appropriately sited and or integrated into the built form envelope, reducing its visual prominence from



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

	both neighbouring properties and the public domain. A height compliant development would also not be capable of accommodating a well serviced area of communal open space across the roof of the building alongside telecommunication infrastructure without it adversely and unjustly impeding upon envisaged residential yield and density. It is also worth noting that the scale of this development afforded by way of this breach, will facilitate the provision of a built form that is deemed to be more in keeping with the desired future character of the area over that likely to arise out of a wholly compliant scheme. It is therefore our opinion that the siting, scale and relationship the breaching elements will have with neighbouring properties and the public domain/s, the development is not inconsistent with that anticipated to result by way of a compliant scheme. The scale, nature and aspect of the site and in turn breach, enable the proposed building to visually integrate with that of neighbouring building's both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.
to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,	The height breaching elements/components of the building are of a siting, scale and aspect where they will not identify as visually dominant nor jarring to the contextual character. The materiality and overall tone of the breaching component is such that it will present as a visually recessive part of the building that will not adversely contribute to visual bulk but rather, present as a subtle and informed contribution to the composition of the development. It is also pertinent to note that the height breaching elements will not result in an unreasonable level of impact to the extent of available views across the development with respect to distant Sydney CBD and Botany Bay views. In order to determine the extent of additional shadowing likely to be incurred by the part/s of the



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

	building that breach the prescribed height, Place have prepared a shadow analysis that forms part of the architectural plan detailed set. This analysis demonstrates the extent of additional impact upon neighbouring properties and the public domain is minimal and will not adversely alter overall solar access outcomes. With respect to privacy, the breaching element/s of the building, will not result in any discernible impacts to the extent of privacy afforded to neighbouring properties and or future residents alike.
(c) to nominate heights that will provide an appropriate transition in built form and land use intensity.	The height breaching elements do not adversely influence the development's ability in responding to the transitional interface and setting noting the evolving character. Having regard to the transitioning contextual character and the anticipated building heights/scales across neighbouring properties once redeveloped, the building height breach maintains an orderly and more responsive contextual outcome, and therefore, the proposal continues to align with this objective despite the height variation.

4.1.2 Clause 4.6 (3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Clause 4.6(3)(b) of the BLEP 2021, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:

"That there are sufficient environmental planning grounds to justify contravening the development standard".

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

standard and not simply promote the benefits of carrying out the development as summarised in (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

The proposed development is supportable on environmental planning grounds for the following reasons:

- The proposal (notwithstanding the LEP contravention), is consistent with the objectives of the development standard as provided in clause 4.3 of the BLEP 2021.
- The shadow diagrams that form part of this variation request demonstrate that the area of height variation will not result in an unreasonable increase to the extent of overshadowing impact on either neighbouring properties or public domain.
- The perception of building height, most notably where it breaches the standard, has been formed in a manner that continues to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At high level, the proposed building successfully mitigates environmental impacts such as overshadowing and visual impact.
- The rooftop elements which breach the height, service a large accessible communal open space sited away from the building edges. In this location, they will remain appropriately integrated into the built form envelope and will not present as features that contribute to the extent of perceivable building bulk. Insistence on compliance with the height control would result in the removal of a number of rooftop elements servicing the COS, which is a disproportionate response to the relatively minor impacts created by these elements.
- The infrastructure which breaches the height, provides for a direct community benefit in terms of servicing the telecommunication needs of the community both local and broader.

The Objects of the Act under S1.3 are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in **the table below** we consider whether the proposed development is consistent with each object.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

The objects of this Act and how this proposal responds to the object are as follows:

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This object is not relevant to this application.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.
(d) to promote the delivery and maintenance of affordable housing,	This object is not relevant to this development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves as a positive influence on the built form environment both existing and likely to emerge upon the redevelopment of building stock.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	Nothing will preclude the proposed development from having the ability to comply with all relevant BCA codes and standards.



Statement of Environmental Effects
401-405 Princes Highway, Rockdale

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	This object is not relevant to this development
(j) to provide increased opportunity for community participation in environmental planning and assessment.	This application will be neighbour notified in accordance with Council's DCP provisions.

Based on the above, the consent authority can be satisfied that there the proposed development remains consistent with the Objects of the Act despite the height non-compliance.

4.1.3. Clause 4.6(4) - The consent authority must keep a record of its assessment carried out under subclause (3).

Bayside Council has a current Clause 4.6 register. Any record of this development and its address of subclause (3) will be required to be uploaded on this register.



5. CONCLUSION

For the reasons set out in this written request, strict compliance with the HOB development standard contained within clause 4.3 of BLEP is unreasonable in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation.

It is reasonable and appropriate to HOB development standard to the extent proposed for the reasons detailed within this submission and as summarised below:

- Compliance with the HOB development standard is unreasonable in the circumstances of the proposed development.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the standard.
- There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- There is an absence of any environmental impacts arising from the proposed variation.

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the HOB development standard should be applied.

FOX LANE RESIDENCES 401-405 PRINCES HIGHWAY, ROCKDALE MULTI-RESIDENTIAL DEVELOPMENT

ARCHITECTURAL DRAWING LIST

SHEET NO.	SHEET NAME	REV	DATE
DA - 000	COVER SHEET	A	08/05/2025
DA - 002	SITE PLAN	A	08/05/2025
DA - 004	SITE ANALYSIS PLAN	A	08/05/2025
DA - 100	BASEMENT 05 PLAN	A	08/05/2025
DA - 101	BASEMENT 04 PLAN	A	08/05/2025
DA - 102	BASEMENT 03 PLAN	A	08/05/2025
DA - 103	BASEMENT 02 PLAN	A	08/05/2025
DA - 104	BASEMENT 01 PLAN	A	08/05/2025
DA - 200	GROUND FLOOR PLAN	A	08/05/2025
DA - 201	LEVEL 01 PLAN	A	08/05/2025
DA - 202	LEVEL 02 PLAN	A	08/05/2025
DA - 203	LEVEL 03 PLAN	A	08/05/2025
DA - 204	LEVEL 04 PLAN	A	08/05/2025
DA - 205	LEVEL 05 PLAN	A	08/05/2025
DA - 206	LEVEL 06 PLAN	A	08/05/2025
DA - 207	LEVEL 07 PLAN	A	08/05/2025
DA - 208	LEVEL 08 PLAN	A	08/05/2025
DA - 209	LEVEL 09 PLAN	A	08/05/2025
DA - 210	LEVEL 10 PLAN (ROOF PLAN)	A	08/05/2025
DA - 211	LEVEL 11 PLAN (LIFT OVERRUN)	A	08/05/2025
DA - 301	SECTION AA	A	08/05/2025
DA - 302	SECTION BB - CC	A	08/05/2025
DA - 303	SECTION DD	A	08/05/2025
DA - 305	ENTRY RAMP SECTION	A	08/05/2025
DA - 401	ELEVATION - NORTH	A	08/05/2025
DA - 402	ELEVATION - SOUTH	A	08/05/2025
DA - 403	ELEVATION - EAST	A	08/05/2025
DA - 404	ELEVATION - WEST	A	08/05/2025
DA - 601	CROSS VENTILATION	A	08/05/2025
DA - 602	SOLAR COMPLIANCE 9.00AM - 3.00PM	A	08/05/2025
DA - 604	VIEWS FROM SUN JUNE 21 9.00 AM	A	08/05/2025
DA - 605	VIEWS FROM SUN JUNE 21 9.30 AM	A	08/05/2025
DA - 606	VIEWS FROM SUN JUNE 21 10.00 AM	A	08/05/2025
DA - 607	VIEWS FROM SUN JUNE 21 10.30 AM	A	08/05/2025
DA - 608	VIEWS FROM SUN JUNE 21 11.00 AM	A	08/05/2025
DA - 609	VIEWS FROM SUN JUNE 21 11.30 AM	A	08/05/2025
DA - 610	VIEWS FROM SUN JUNE 21 12.00 PM	A	08/05/2025
DA - 611	VIEWS FROM SUN JUNE 21 12.30 PM	A	08/05/2025
DA - 612	VIEWS FROM SUN JUNE 21 1.00 PM	A	08/05/2025
DA - 614	VIEWS FROM SUN JUNE 21 1.30 PM	A	08/05/2025
DA - 615	VIEWS FROM SUN JUNE 21 2.00 PM	A	08/05/2025
DA - 616	VIEWS FROM SUN JUNE 21 2.30 PM	A	08/05/2025
DA - 617	VIEWS FROM SUN JUNE 21 3.00 PM	A	08/05/2025
DA - 618	VIEWS FROM SUN JUNE 21 3.30 PM	A	08/05/2025
DA - 619	SHADOW DIAGRAM	A	08/05/2025
DA - 620	SHADOW DIAGRAM	A	08/05/2025
DA - 621	SHADOW DIAGRAM	A	08/05/2025
DA - 622	SHADOW DIAGRAM	A	08/05/2025
DA - 630	GFA CALCULATION PLANS	A	08/05/2025
DA - 635	COMMUNAL OPEN SPACE	A	08/05/2025
DA - 640	LEP HEIGHT PLANE DIAGRAM	A	08/05/2025
DA - 641-B	OLS HEIGHT PLANE - DIAGRAM	A	08/05/2025
DA - 700	PERSPECTIVE	A	08/05/2025

UNIT MIX SCHEDULE			
Type	Unit Number	Unit Type	Area

APARTMENT (ADAPTABLE)	101	3B	105 m²
APARTMENT (ADAPTABLE)	102	2B	77 m²
APARTMENT	103	2B	76 m²
APARTMENT	104	2B	70 m²
APARTMENT	105	2B	103 m²
APARTMENT	106	1B	51 m²

LEVEL 01: 6			
APARTMENT	201	3B	104 m²
APARTMENT	202	3B	100 m²
APARTMENT	203	2B	78 m²
APARTMENT	204	2B	75 m²
APARTMENT	205	2B	82 m²
APARTMENT	206	2B	75 m²
APARTMENT	207	STUDIO	45 m²

APARTMENT	208	1B	51 m²
LEVEL 02: 8			
APARTMENT	301	3B	104 m²
APARTMENT	302	3B	100 m²
APARTMENT (ADAPTABLE)	303	2B	76 m²
APARTMENT	304	2B	75 m²
APARTMENT	305	2B	82 m²
APARTMENT	306	2B	75 m²
APARTMENT	307	STUDIO	45 m²

APARTMENT	308	1B	51 m²
LEVEL 03: 8			
APARTMENT	401	3B	132 m²
APARTMENT (ADAPTABLE)	402	2B	77 m²
APARTMENT	403	2B	76 m²
APARTMENT	404	2B	82 m²
APARTMENT	405	2B	75 m²
APARTMENT	406	STUDIO	45 m²

APARTMENT	407	1B	51 m²
LEVEL 04: 7			
APARTMENT	501	3B	127 m²
APARTMENT	502	2B	75 m²
APARTMENT	503	2B	76 m²
APARTMENT	504	2B	82 m²
APARTMENT	505	3B	110 m²
APARTMENT	506	1B	51 m²

LEVEL 05: 6			
APARTMENT	601	3B	127 m²
APARTMENT	602	2B	75 m²
APARTMENT	603	2B	82 m²
APARTMENT	604	3B	110 m²
APARTMENT	605	1B	51 m²
LEVEL 06: 6			
APARTMENT	701	3B	100 m²
APARTMENT	702	2B	76 m²
APARTMENT	703	2B	76 m²
APARTMENT	704	3B	96 m²
APARTMENT	705	2B	79 m²
APARTMENT	706	2B	78 m²

UNIT MIX SCHEDULE			
Type	Unit Number	Unit Type	Area

APARTMENT (ADAPTABLE)	601	3B	127 m²
APARTMENT	602	2B	75 m²
APARTMENT	603	2B	82 m²
APARTMENT	604	3B	110 m²
APARTMENT	605	1B	51 m²
APARTMENT	606	2B	76 m²

LEVEL 06: 6			
APARTMENT	701	3B	100 m²
APARTMENT	702	3B	105 m²
APARTMENT	703	2B	76 m²
APARTMENT	704	3B	96 m²
APARTMENT	705	2B	79 m²
APARTMENT	706	2B	78 m²

LEVEL 07: 6			
APARTMENT	801	3B	100 m²
APARTMENT	802	3B	106 m²
APARTMENT	803	2B	76 m²
APARTMENT	804	3B	96 m²
APARTMENT	805	2B	79 m²
APARTMENT	806	2B	78 m²

LEVEL 08: 6			
APARTMENT	901	3B	100 m²
APARTMENT	902	3B	105 m²
APARTMENT	903	2B	76 m²
APARTMENT	904	2B	91 m²
APARTMENT	905	2B	79 m²
APARTMENT	906	2B	78 m²

LEVEL 09: 6			
Grand total: 59			
LEGEND:			
NEW APARTMENT			
MODIFIED APARTMENT			
10 NEW APARTMENTS			
1 MODIFIED APARTMENT			

TOTAL UNIT MIX	
Unit Type	Count
1B	6
2B	32
3B	18
STUDIO	3
Grand total: 59	59

UNIT STORAGE		
NO.	TYPE	Appt. Storage Volume

101	3 BED	10.03 m³
102	2 BED	8.12 m³
103	2 BED	8.15 m³
104	2 BED	10.49 m³
105	2 BED	8.31 m³
106	1 BED	6.05 m³
201	3 BED	10.04 m³
202	3 BED	10.15 m³
203	2 BED	8.12 m³
204	2 BED	8.15 m³
205	2 BED	8.32 m³
206	2 BED	10.07 m³
207	STUDIO	4.03 m³
208	1 BED	6.05 m³
301	3 BED	10.04 m³
302	3 BED	10.15 m³
303	2 BED	8.12 m³
304	2 BED	8.15 m³
305	2 BED	8.32 m³
306	2 BED	10.07 m³
307	STUDIO	4.03 m³
308	1 BED	6.05 m³
401	3 BED	13.15 m³
402	2 BED	8.06 m³
403	2 BED	8.15 m³
404	2 BED	8.32 m³
405	2 BED	10.07 m³
406	STUDIO	4.03 m³
407	1 BED	6.05 m³
501	3 BED	12.61 m³

502	2 BED	8.15 m³
503	2 BED	8.32 m³
504	2 BED	10.27 m³
505	3 BED	10.27 m³
506	1 BED	6.05 m³
601	3 BED	12.61 m³
602	2 BED	8.06 m³
603	2 BED	8.32 m³
604	3 BED	10.27 m³
605	1 BED	6.05 m³
606	2 BED	8.15 m³
701	3 BED	12.84 m³
702	3 BED	10.69 m³
703	2 BED	8.15 m³
704	3 BED	12.80 m³
705	2 BED	10.97 m³
706	2 BED	8.03 m³
801	3 BED	12.84 m³
802	3 BED	10.69 m³
803	2 BED	8.15 m³
804	3 BED	12.80 m³
805	2 BED	10.97 m³
806	2 BED	8.03 m³
901	3 BED	12.84 m³
902	3 BED	16.93 m³
903	2 BED	8.15 m³
904	2 BED	14.56 m³
905	2 BED	14.85 m³
906	2 BED	8.03 m³

RESIDENTIAL PARKING SCHEDULE	
TYPE	COUNT

BASEMENT 02	
Residential Adaptable Car Space (5400 x 2400)	3
Residential Car Space (5400 x 2400)	13
16	
BASEMENT 03	
Residential Adaptable Car Space (5400 x 2400)	3
Residential Car Space (5400 x 2400)	18
18	
BASEMENT 04	
Residential Adaptable Car Space (5400 x 2400)	1
Residential Car Space (5400 x 2400)	18
BASEMENT 05	
Residential Adaptable Car Space (5400 x 2400)	1
Residential Car Space (5400 x 2400)	20
21	
Grand total: 74	

VISITOR PARKING SCHEDULE	
TYPE	COUNT

BASEMENT 01	
Visitor Adaptable Car Space (5400 x 2400)	1
Visitor Car Space (5400 x 2400)	11
12	
BASEMENT 02	
Car Wash Bay / Visitor Car Space (5500 x 3500)	1
Grand total: 13	

PARKING CALCULATION (DCP PARKING RATE)	
Residential	
Studio	= 3 x 0.6 = 1.8 Parking Spaces
1 Bed	= 6 x 0.6 = 3.6 Parking Spaces
2 Bed	= 32 x 0.9 = 28.8 Parking Spaces
3 Bed	= 18 x 1.6 = 25.2 Parking Spaces

Total Residential Parking Spaces	= 60 Parking Spaces
Residential Visitor	
1 Parking Space / 5 Apartments	= (59/5) 12 Parking Spaces
13 Provided, inclusive of 2 x Loading Bays & 1 x Car Wash Bay	

Commercial	
1 Parking Space / 40m2 (with 20% reduction in Rockdale Town Center Precinct)	= (270m2/40m2)*80% = 6.75*80% = 5.4 Parking Spaces
6 Provided	

Target DCP Parking Spaces	= 78
Total Car Parking Spaces provided	= 93

PRELIMINARY
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AMENDING DEVELOPMENT APPLICATION

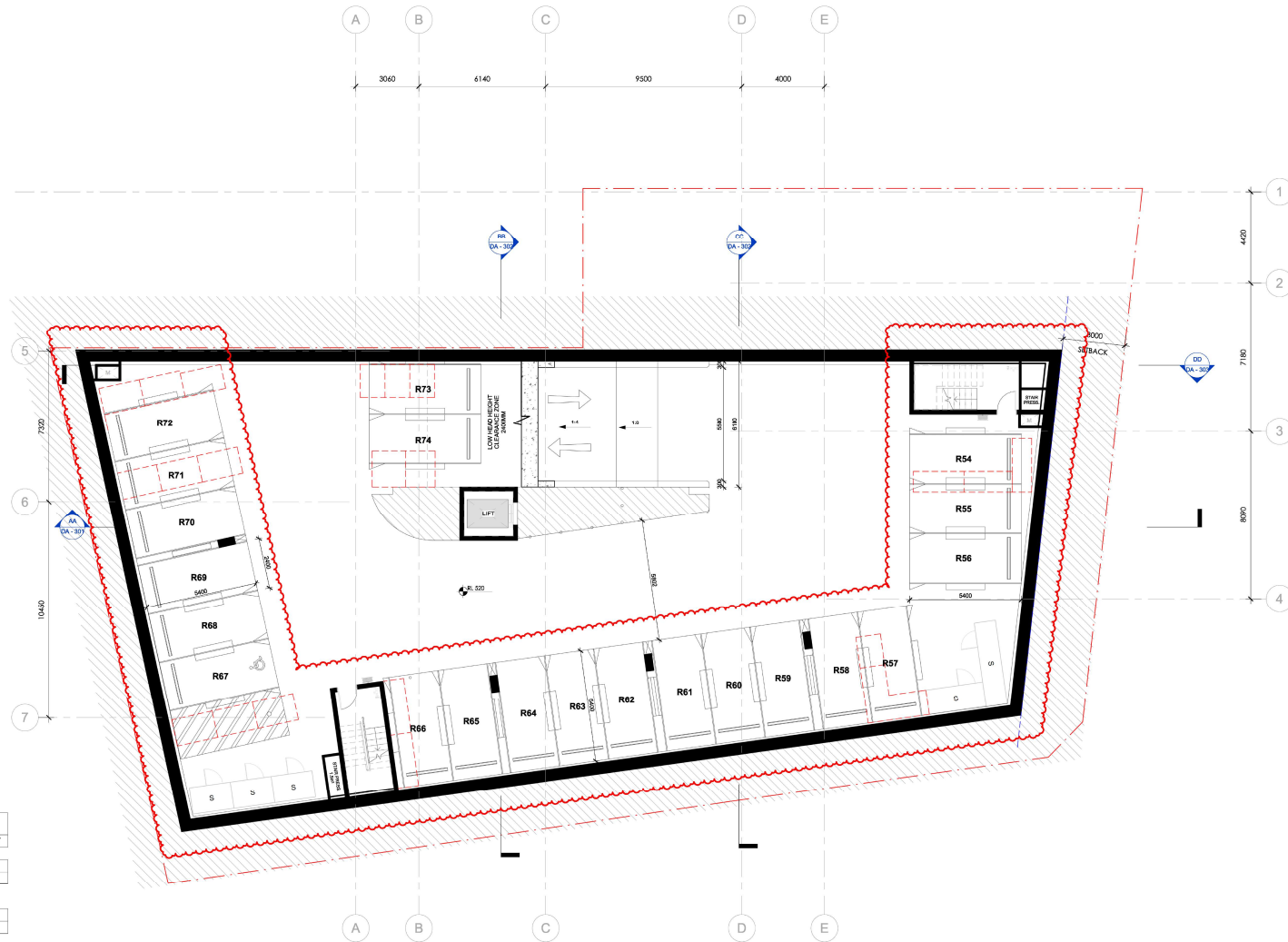
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LEGEND:

PROJECT:
#2016057
FOX LANE
RESIDENCES
401-405 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
COVER SHEET
SHEET NUMBER:
DA - 000
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO PTY LTD
10/100 PRINCES HWY, ROCKDALE NSW 2222
PH: 02 9438 1000 FAX: 02 9438 1001
WWW.PLACESTUDIO.COM.AU

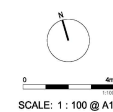


RESIDENTIAL PARKING SCHEDULE		
TYPE	COUNT	
BASEMENT 02		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	13	
16		
BASEMENT 03		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	15	
18		
BASEMENT 04		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	18	
19		
BASEMENT 05		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	20	
21		
Grand total: 74		

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REV	DATE	DESCRIPTION	APP
P1	20/10/2025	REVISED FOR P100-DA-100	RD
P2	20/10/2025	DA-100 AMENDMENTS	RD
P3	20/10/2025	DA-100 AMENDMENTS	RD
P4	20/10/2025	DA-100 AMENDMENTS	RD
P5	20/10/2025	DA-100 AMENDMENTS	RD
P6	20/10/2025	DA-100 AMENDMENTS	RD
P7	20/10/2025	DA-100 AMENDMENTS	RD
P8	20/10/2025	DA-100 AMENDMENTS	RD
P9	20/10/2025	DA-100 AMENDMENTS	RD
P10	20/10/2025	DA-100 AMENDMENTS	RD
P11	20/10/2025	DA-100 AMENDMENTS	RD
P12	20/10/2025	DA-100 AMENDMENTS	RD
P13	20/10/2025	DA-100 AMENDMENTS	RD
P14	20/10/2025	DA-100 AMENDMENTS	RD
P15	20/10/2025	DA-100 AMENDMENTS	RD
P16	20/10/2025	DA-100 AMENDMENTS	RD
P17	20/10/2025	DA-100 AMENDMENTS	RD
P18	20/10/2025	DA-100 AMENDMENTS	RD
P19	20/10/2025	DA-100 AMENDMENTS	RD
P20	20/10/2025	DA-100 AMENDMENTS	RD
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P96	20/10/2025	DA-100 AMENDMENTS	RD
P97	20/10/2025	DA-100 AMENDMENTS	RD
P98	20/10/2025	DA-100 AMENDMENTS	RD
P99	20/10/2025	DA-100 AMENDMENTS	RD
P100	20/10/2025	DA-100 AMENDMENTS	RD

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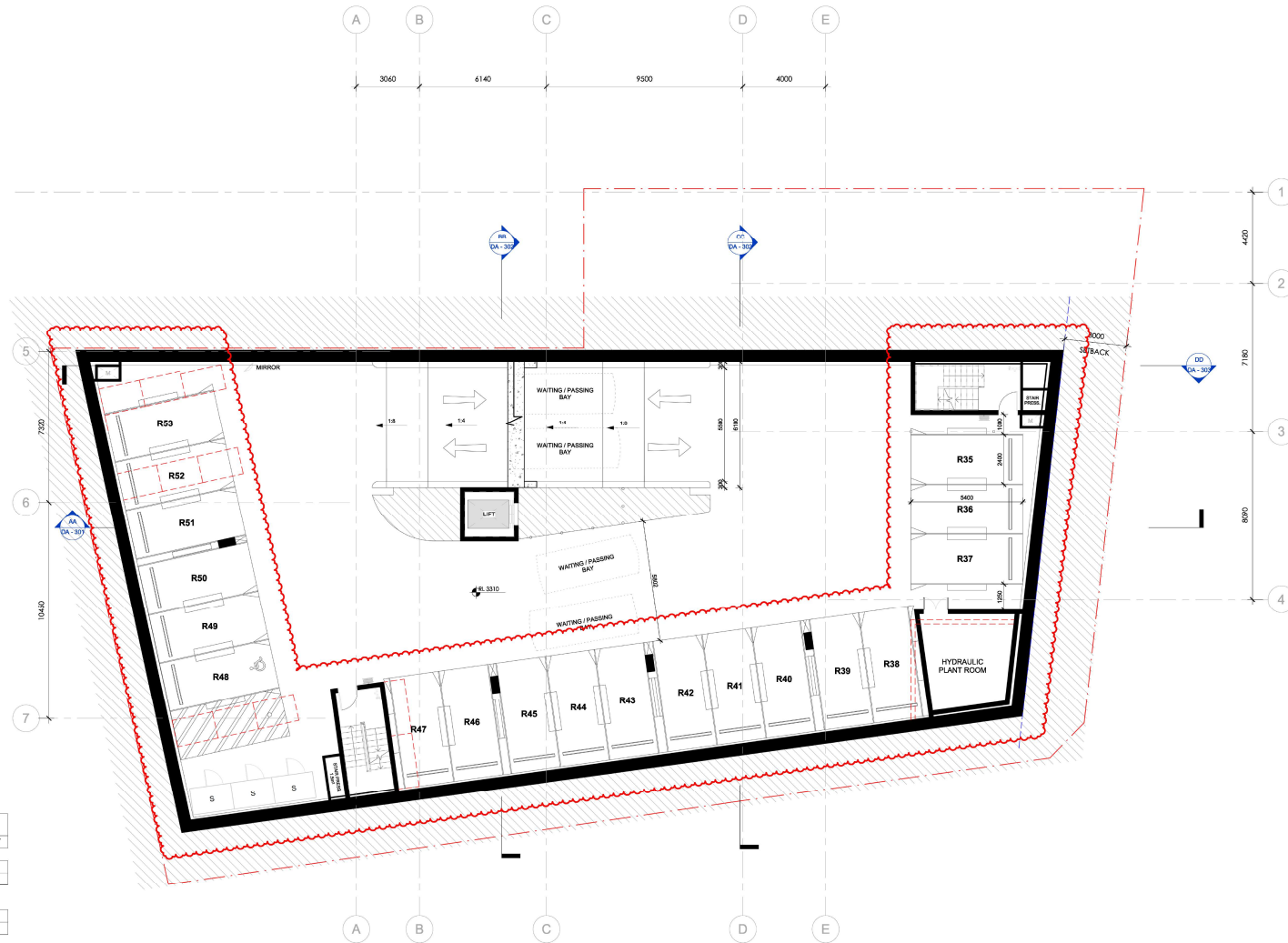


PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
BASEMENT 05 PLAN
SHEET NUMBER:
DA - 100
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/400-100000, NEWCASTLE NSW 2260
T: 01 41 00 1000 F: 01 41 00 1001
W: www.placestudio.com.au E: info@placestudio.com.au

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AMENDING DEVELOPMENT APPLICATION**



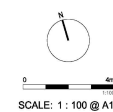
RESIDENTIAL PARKING SCHEDULE		
TYPE	COUNT	
BASEMENT 02		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	13	
16		
BASEMENT 03		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	15	
18		
BASEMENT 04		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	18	
19		
BASEMENT 05		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	20	
21		
Grand total:	74	

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AMENDING DEVELOPMENT APPLICATION

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REV	DATE	DESCRIPTION
P1	20/10/2025	ISSUED FOR PRE-DA APP
P2	20/10/2025	DA AMENDMENTS
P3	20/10/2025	DA AMENDMENTS
P4	20/10/2025	DA AMENDMENTS
A	20/10/2025	AMENDING DA

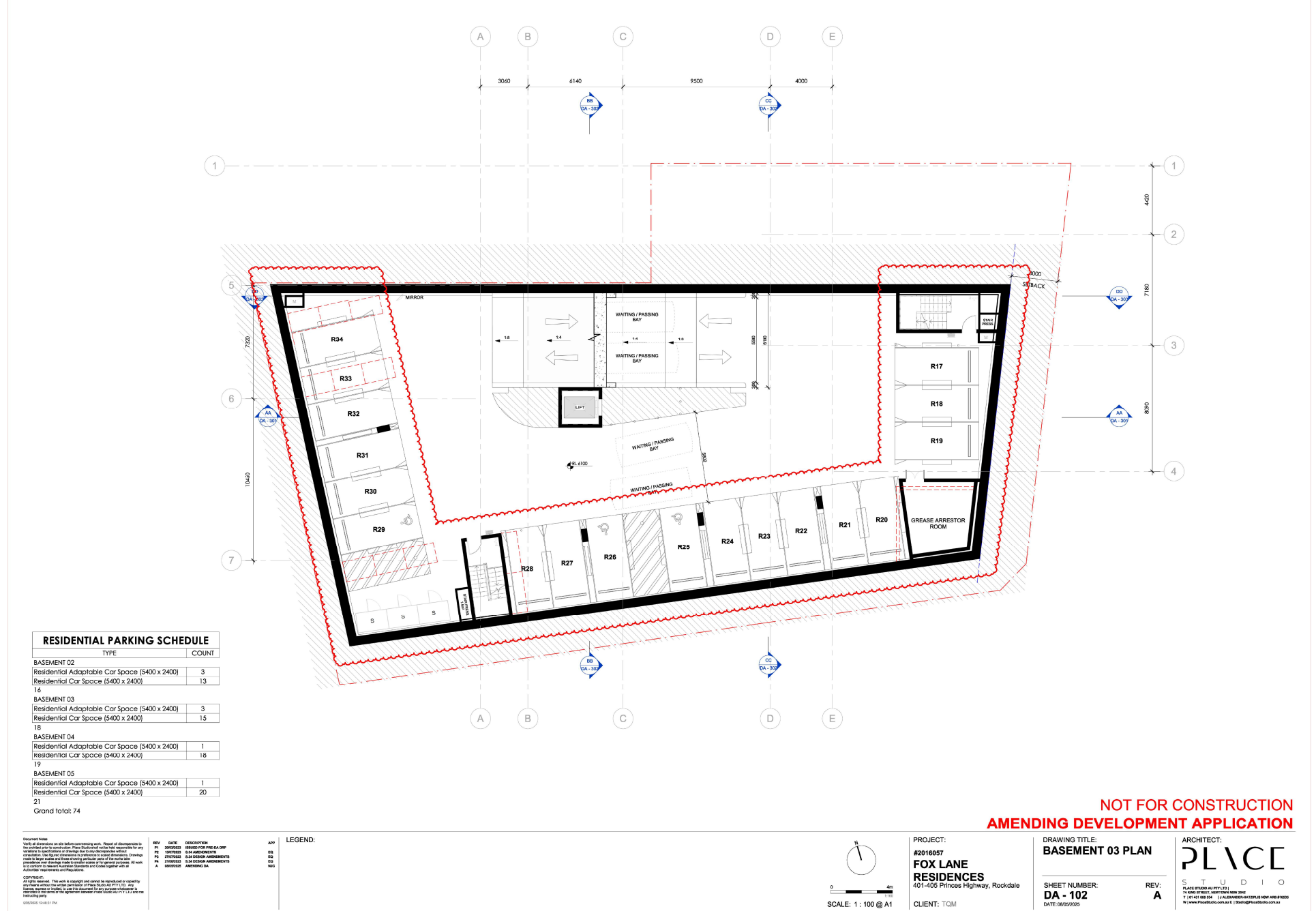
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RD	
RUG	

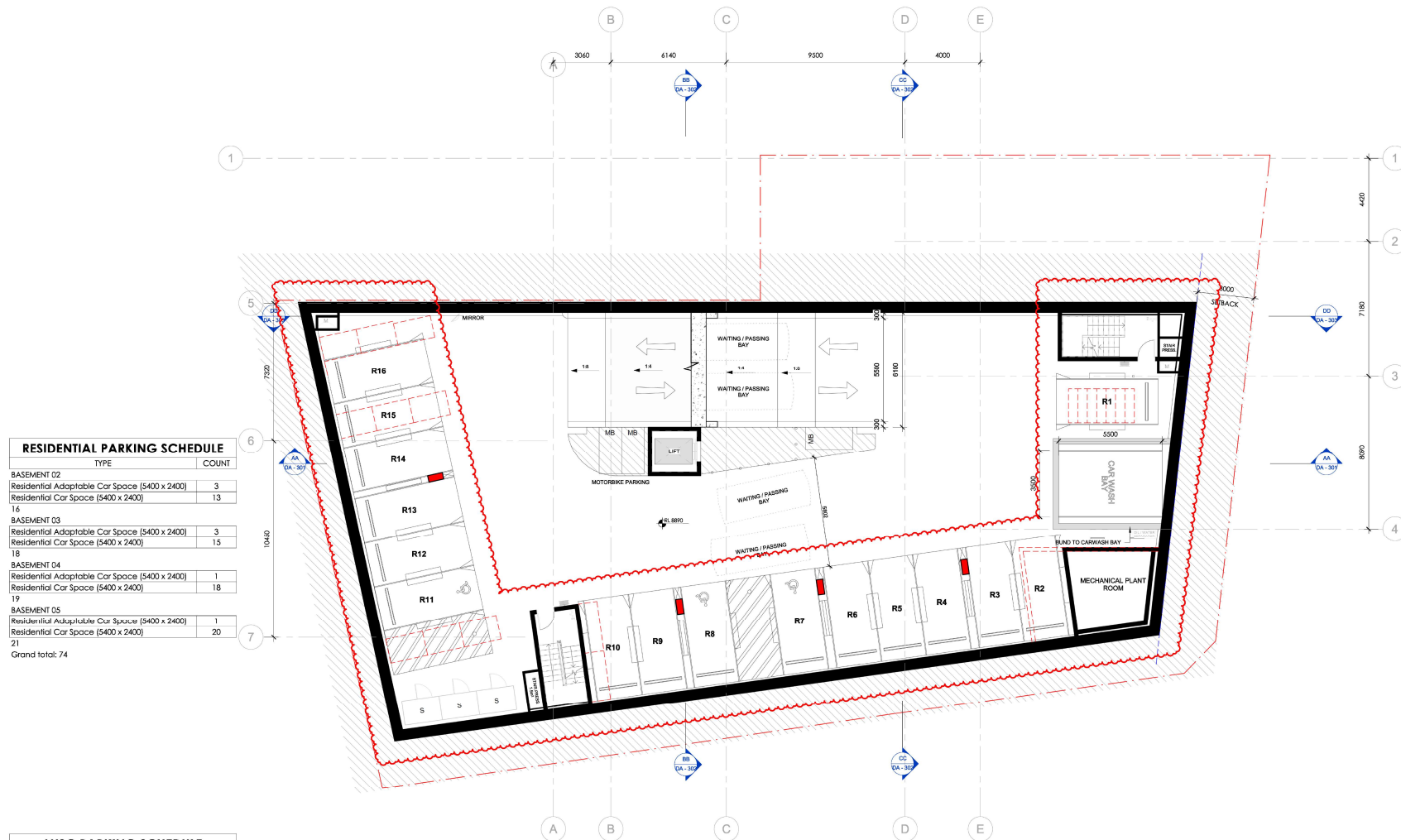


PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
BASEMENT 04 PLAN
SHEET NUMBER:
DA - 101
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/100-110/112, NEWCASTLE ROAD
1/100-110/112, NEWCASTLE ROAD



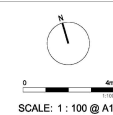


RESIDENTIAL PARKING SCHEDULE		
TYPE	COUNT	
BASEMENT 02		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	13	
16		
BASEMENT 03		
Residential Adaptable Car Space (5400 x 2400)	3	
Residential Car Space (5400 x 2400)	15	
18		
BASEMENT 04		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	18	
19		
BASEMENT 05		
Residential Adaptable Car Space (5400 x 2400)	1	
Residential Car Space (5400 x 2400)	20	
21		
Grand total:	74	

MISC PARKING SCHEDULE		
LEVEL	MOTORBIKE PARKS	BICYCLE PARKS
BASEMENT 02	3	0
BASEMENT 01	1	11
Grand total	4	11

NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

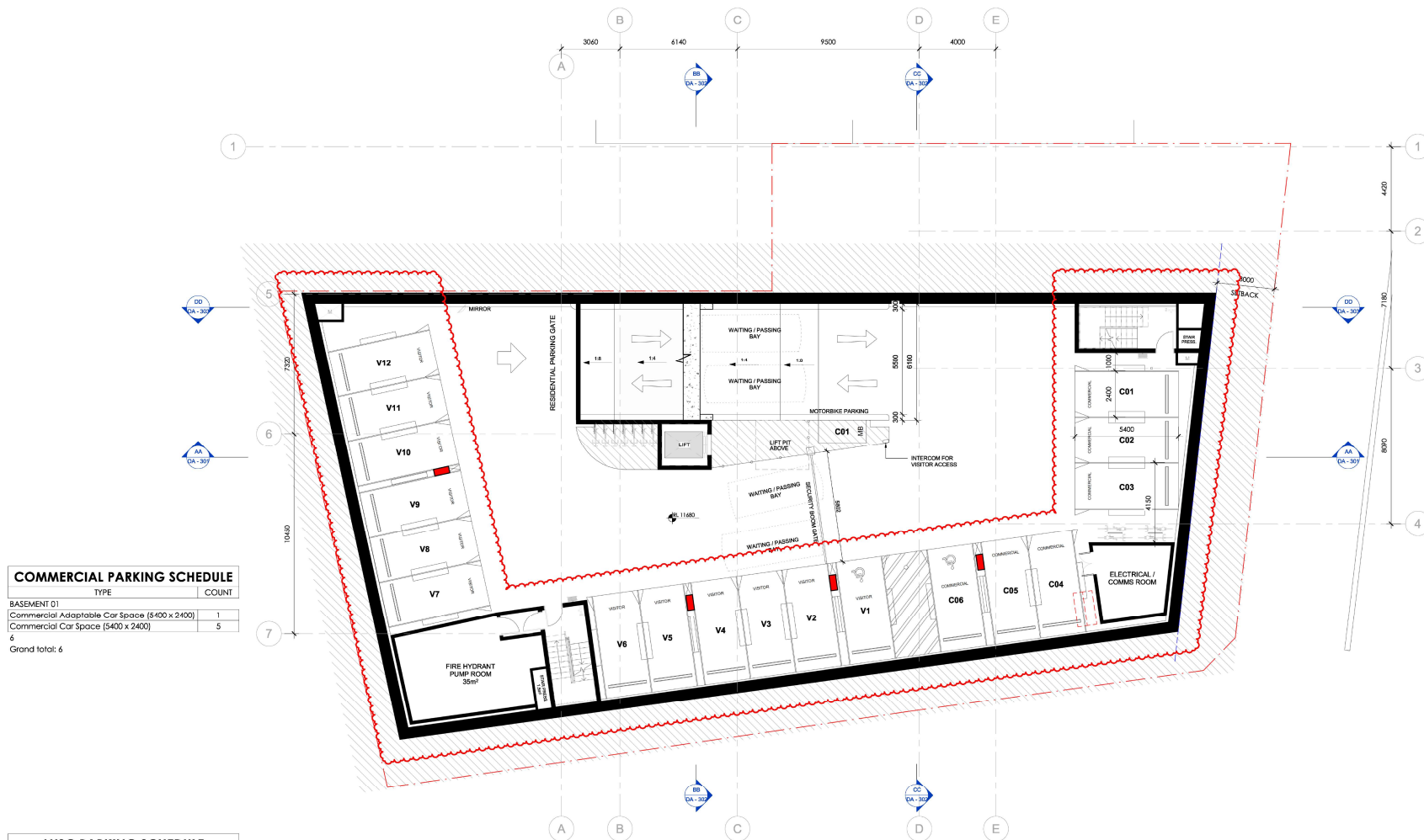
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P1	20/10/2025	REVISED FOR PRE-DA APP	RD	
P2	20/10/2025	DA AMENDMENTS	RD	
P3	20/10/2025	DA AMENDMENTS	RD	
P4	20/10/2025	DA AMENDMENTS	RD	
A	20/10/2025	AMENDING DA	NUG	



PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
BASEMENT 02 PLAN
SHEET NUMBER:
DA - 103
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/101-105/106, 1/106-110/112, NEWCASTLE ROAD
W: www.placestudio.com.au E: info@placestudio.com.au



COMMERCIAL PARKING SCHEDULE		
TYPE	COUNT	
BASEMENT 01		
Commercial Adaptable Car Space (5400 x 2400)	1	
Commercial Car Space (5400 x 2400)	5	
6		
Grand total:	6	

MISC PARKING SCHEDULE		
LEVEL	MOTORBIKE PARKS	BICYCLE PARKS
BASEMENT 02	3	0
BASEMENT 01	1	11
Grand total:	4	11

NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

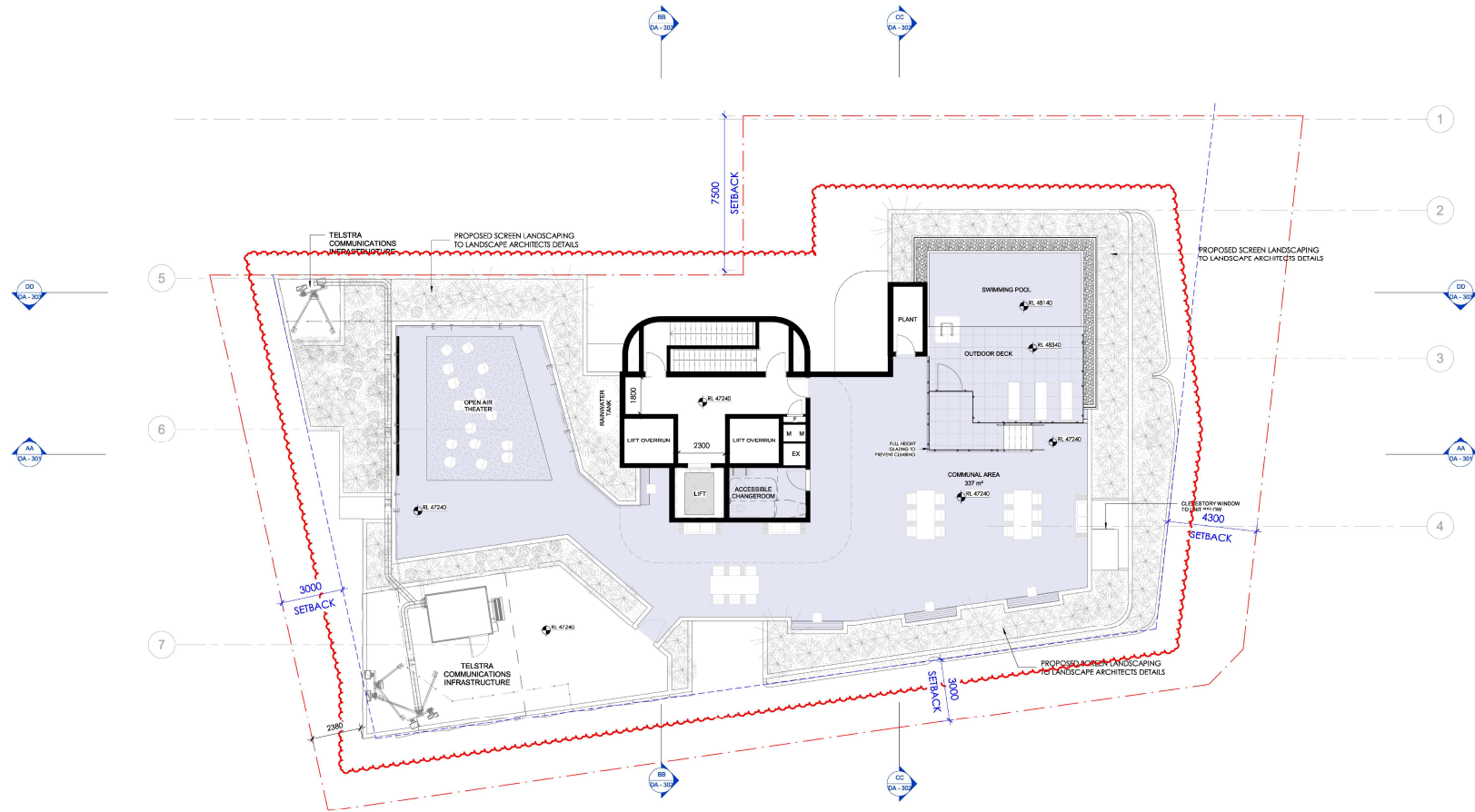
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P3	07/07/2024	DA DESIGN AMENDMENTS	RD	
P4	27/08/2024	DA DESIGN AMENDMENTS	RD	
A	09/09/2024	AMENDING DA	NUG	

0 5m
SCALE: 1 : 100 @ A1

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
BASEMENT 01 PLAN
SHEET NUMBER:
DA - 104
DATE: 09/09/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/101-103/104, 1/105-106/107, NEWCASTLE
W: www.placestudio.com.au E: team@placestudio.com.au



NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

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REV A DATE 28/10/2025 DESCRIPTION AMENDING DA

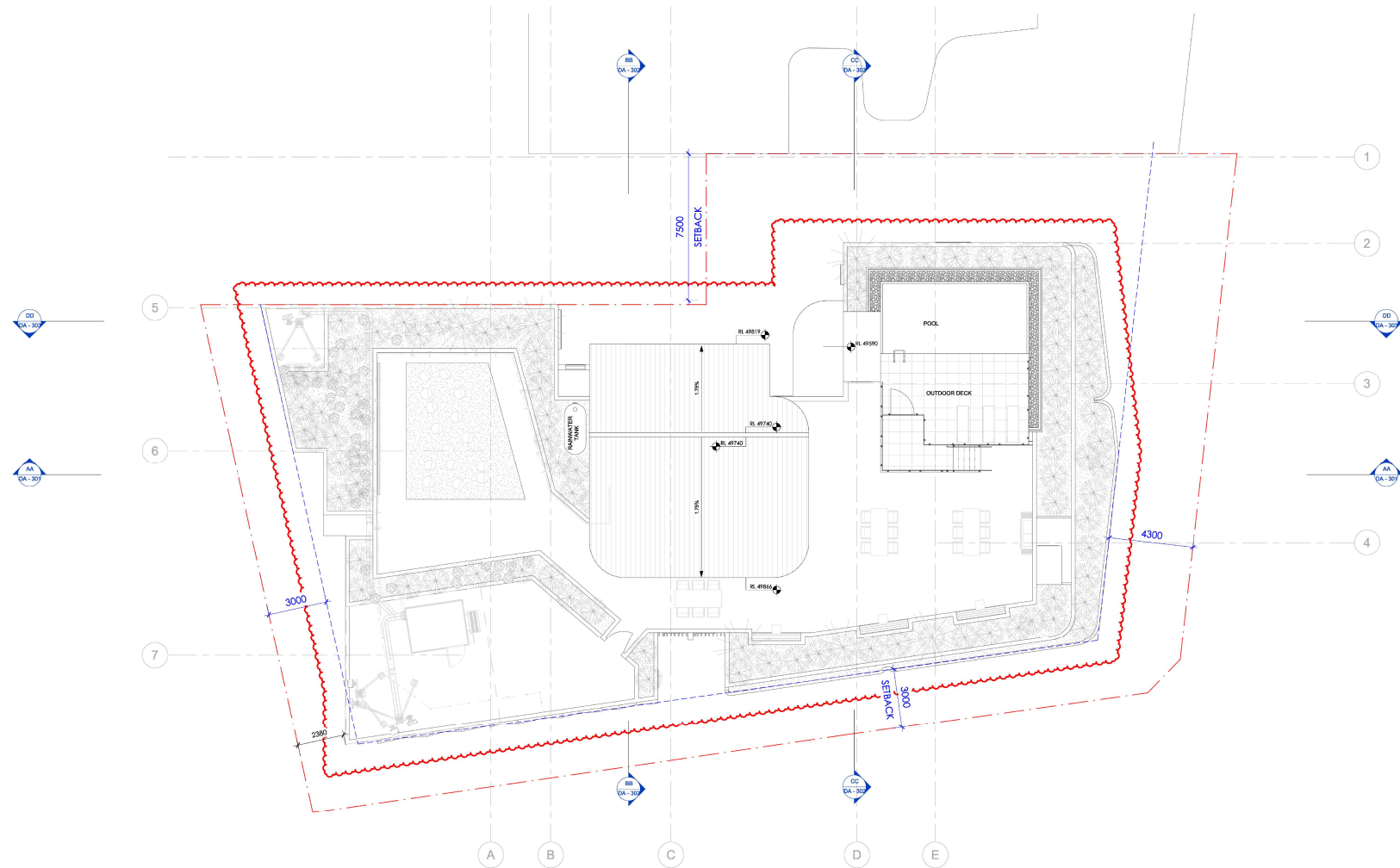
LEGEND:

SCALE: 1 : 100 @ A1

PROJECT: #2016057 FOX LANE RESIDENCES 401-406 Princes Highway, Rockdale CLIENT: TQM

DRAWING TITLE: LEVEL 10 PLAN (ROOF PLAN) SHEET NUMBER: DA - 210 DATE: 28/10/2025

ARCHITECT: PLACE STUDIO PLACE STUDIO AU PTY LTD 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NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

Disclaimer: This drawing is for information only. It is not to be used for construction. The client is responsible for ensuring that the drawing is accurate and that it meets all relevant requirements. The client is also responsible for ensuring that the drawing is not used for any other purpose. The client is also responsible for ensuring that the drawing is not used for any other purpose. The client is also responsible for ensuring that the drawing is not used for any other purpose.

REV DATE DESCRIPTION
A 28/10/2025 AMENDING DA

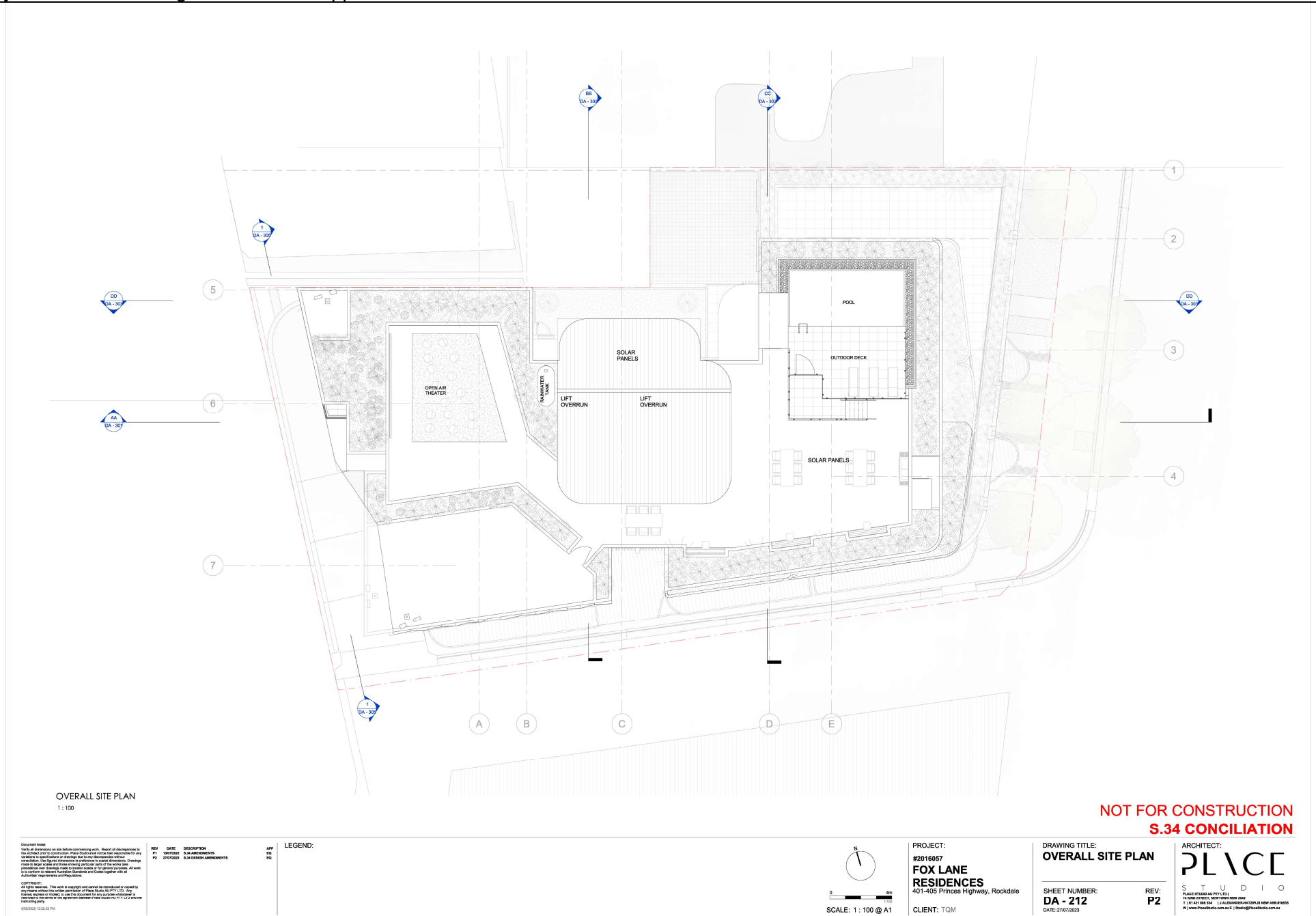
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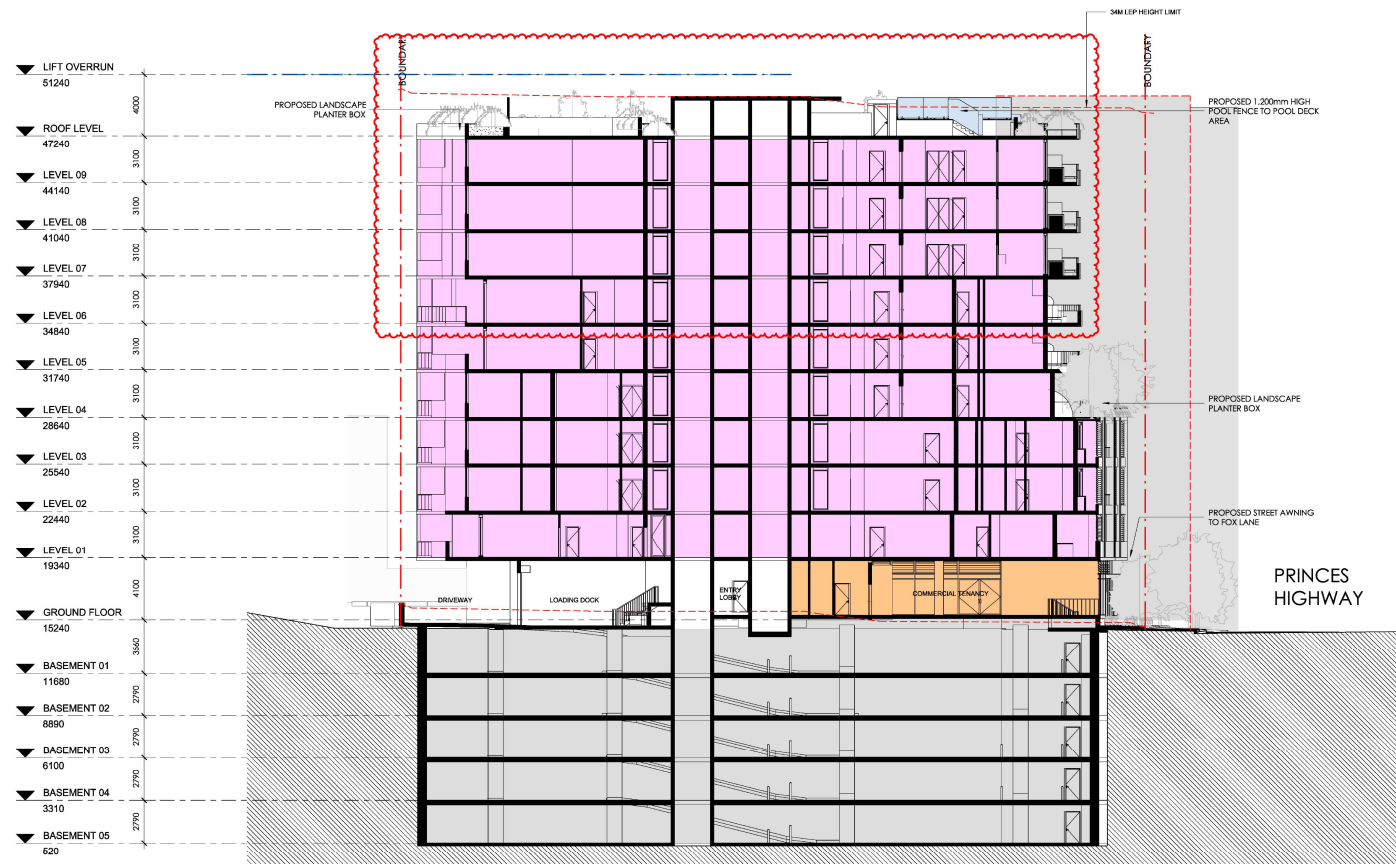
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SCALE: 1:100 @ A1

PROJECT:
#2016057
FOX LANE
RESIDENCES
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
LEVEL 11 PLAN (LIFT
OVERRUN)
SHEET NUMBER:
DA - 211
DATE: 28/10/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
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Document Name Briefly state dimensions or data before commencing work. Report of discrepancies to the architect prior to construction. Please state who will be held responsible for any discrepancies. Use figure dimensions to illustrate any discrepancies.	REV DATE DESCRIPTION
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2.00	P2 2/19/2023 3.34 DESIGN AMENDMENTS
3.00	P3 2/19/2023 3.34 DESIGN AMENDMENTS
4.00	A 6/16/2023 AMENDED

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PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-405 Princes Highway, Rockdale
CLIENT: TQM

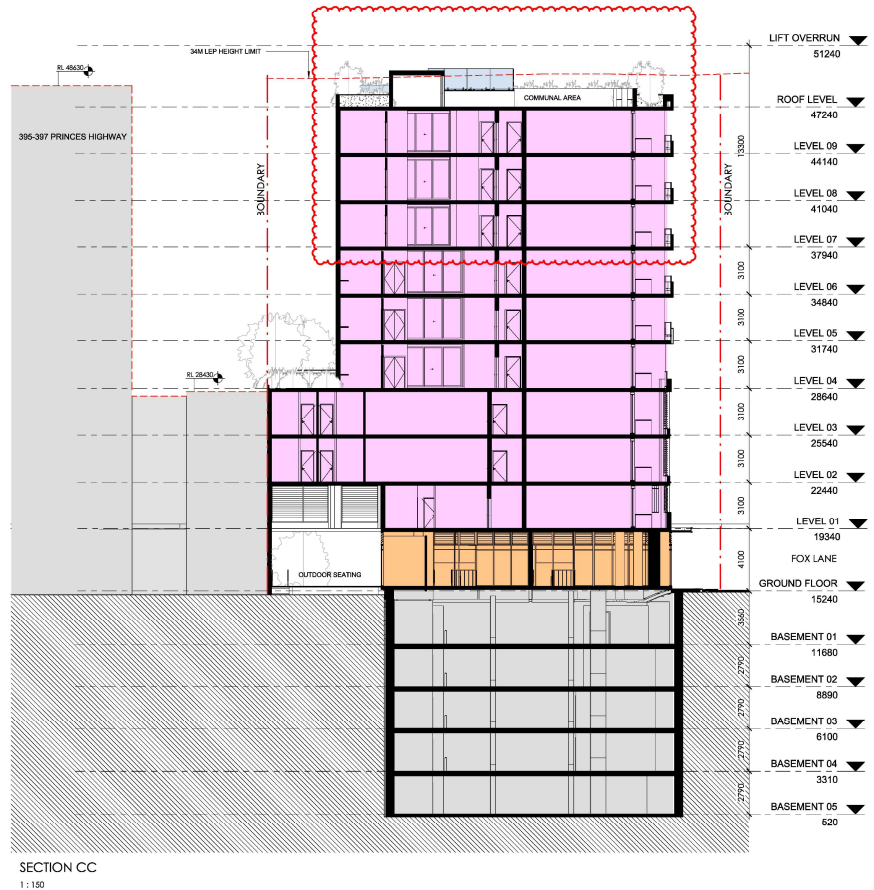
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SECTION AA

SHEET NUMBER:
DA - 301

DATE: 08/05/2025

REV:
A

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY (LTD)
74 NEWBURGH ST, NEWTOWN NSW 2042
T | 01 431 088 834 | J.ALEXANDER@PLACESTUDIO.NSW.AU
W | www.PlaceStudio.com.au | E | Studio@PlaceStudio.com.au

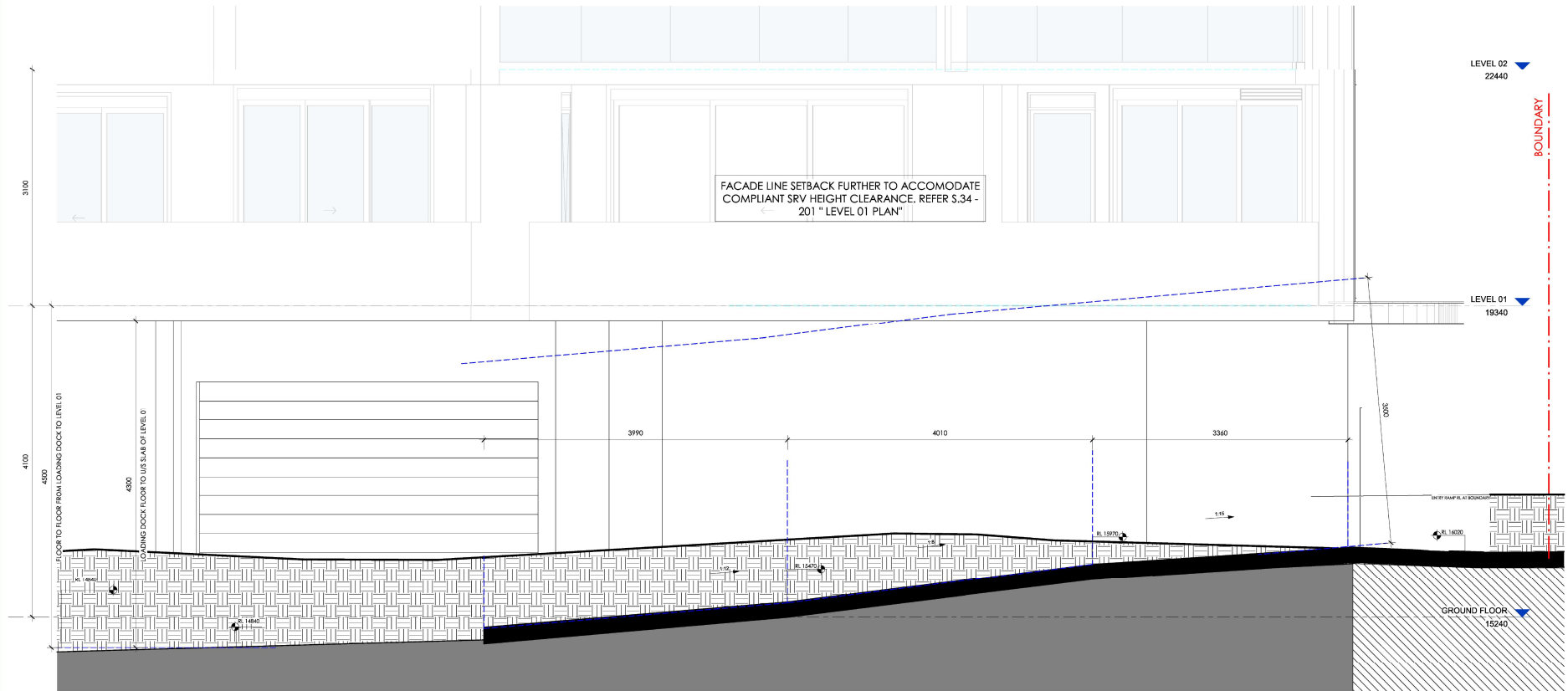


ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
74 RIVER STREET, NEWTON NEW ZEALAND
T +61 431 088 534 | J.ALEXANDER@PLACESTUDIO.NZ
W | www.PlaceStudio.com.au | E studio@PlaceStudio.com.au



ARCHITECT:
PLACE
S T U D I O
PLACE STUDIO AU PTY LTD |
11 RIVER ST MELB, NEW TOWN VIC 3042
T | 61 3 93 08 834 | F | ALEXANDER.HATZIDIS@PLACESTUDIO.COM.AU
W | www.PlaceStudio.com.au | E | Studio@PlaceStudio.com.au

AS APPROVED PER MDA-2022/204
LEC NO: 2023/00163146



ENTRY RAMP SECTION
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S.34 CONCILIATION

REV	DATE	DESCRIPTION	APP
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P2	2/11/2023	S.34 DESIGN AMENDMENTS	DS
P3	2/10/2023	S.34 DESIGN AMENDMENTS	DS
A	05/05/2025	AMENDMENT	DS

LEGEND:

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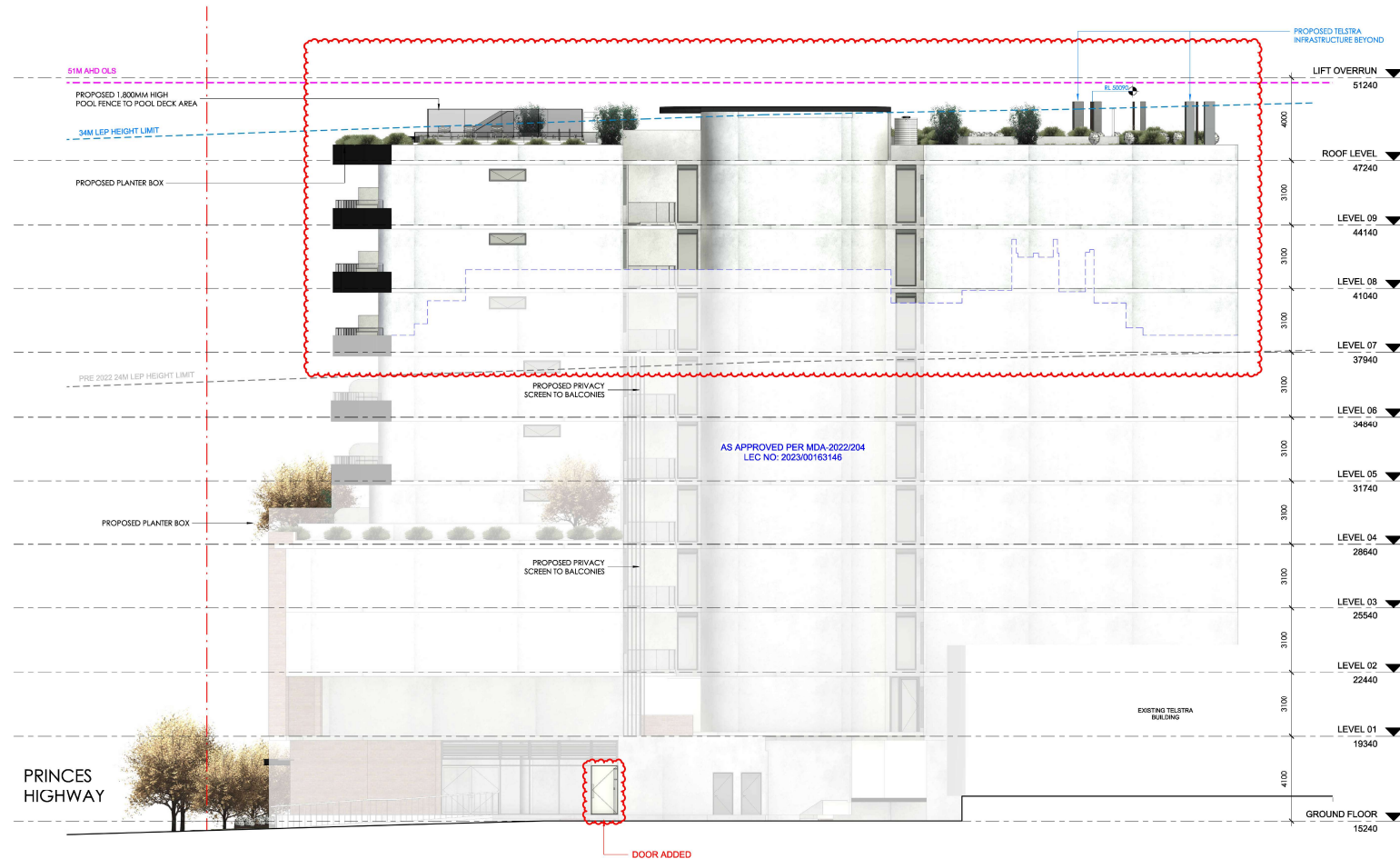
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PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
ENTRY RAMP SECTION
SHEET NUMBER:
DA - 305
DATE: 05/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/11-11/115, NEWCASTLE
W: www.placestudio.com.au E: team@placestudio.com.au



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REVISION	DATE	DESCRIPTION	APP
REV 01	08/06/2023	ISSUED FOR PHASE 0A PERMITS	
P0	13/07/2023	13.0 DESIGN AMENDMENTS	ELO
P1	29/08/2023	14.0 DESIGN AMENDMENTS	ELO
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P3	29/08/2023	AMENDING DAs	N/A

LEGEND:

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PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-405 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
ELEVATION - NORTH

SHEET NUMBER: **DA - 401**

DATE: 08/05/2025

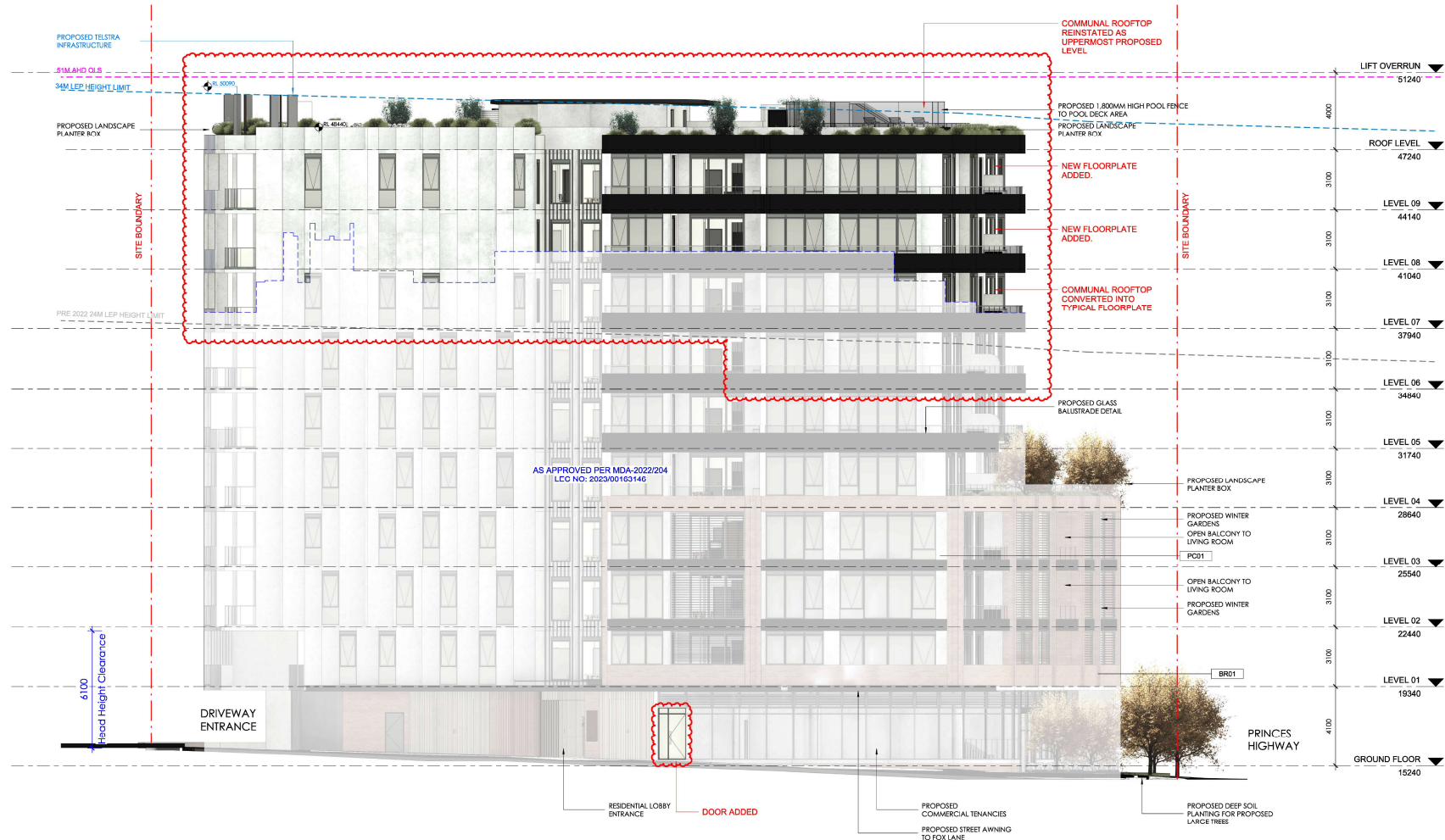
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ARCHITECT:

PLACE

S T U D I O

PLACE STUDIO AU PTY LTD
15 KENNEDY STREET, NORTHCOVE NSW 2262
T | 61 431 988 834 E | ALEXANDER.HATFIELD@NSW.AU
W | www.PlaceStudio.com.au E | Studio@PlaceStudio.com.au



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REVISION	DATE	DESCRIPTION	APP	LEGEND:
P1	28/10/2025	REVISED FOR PRE-DA MAP	MD	
P2	28/10/2025	DA AMENDMENTS	MD	
P3	28/10/2025	DA DESIGN AMENDMENTS	MD	
P4	28/10/2025	DA DESIGN AMENDMENTS	MD	
A	28/10/2025	AMENDED DA	NUS	

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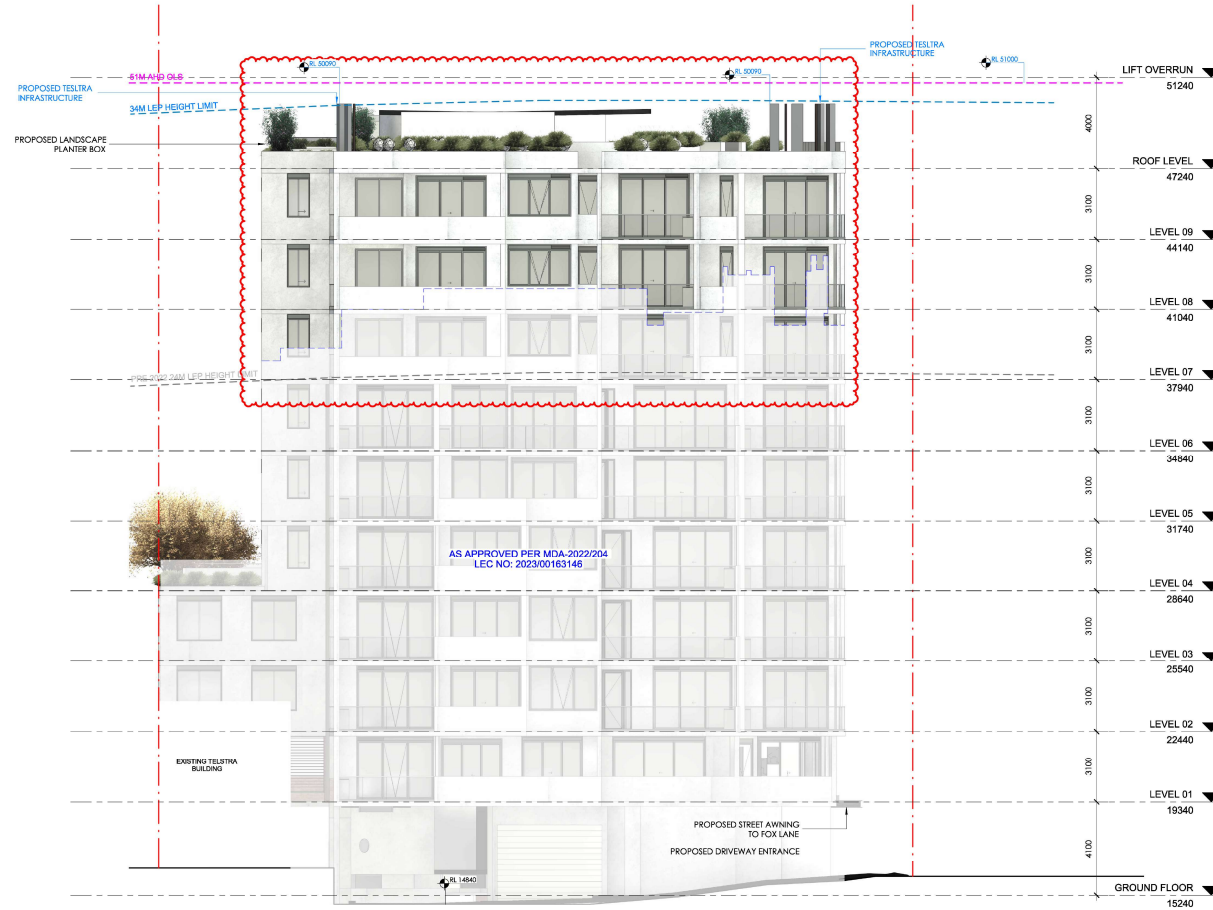
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PROJECT:
#2016057
FOX LANE
RESIDENCES
401-405 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
ELEVATION - SOUTH
SHEET NUMBER:
DA - 402
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
4/80A STIRLING STREET, NEWCASTLE NSW 2300
T: 02 491 888 884 F: 02 491 888 885
E: info@placestudio.com.au W: www.placestudio.com.au



NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

Revised Name	REV	DATE	DESCRIPTION	APP
	P1	28/05/2025	ISSUED FOR PRE-DA DMP	DS
	P2	18/10/2025	DA AMENDMENTS	DS
	P3	17/10/2025	DA DESIGN AMENDMENTS	DS
	P4	22/05/2025	DA DESIGN AMENDMENTS	DS
	A	08/05/2025	AMENDED DA	NUS

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2025-05-13 07:10 PM

LEGEND:

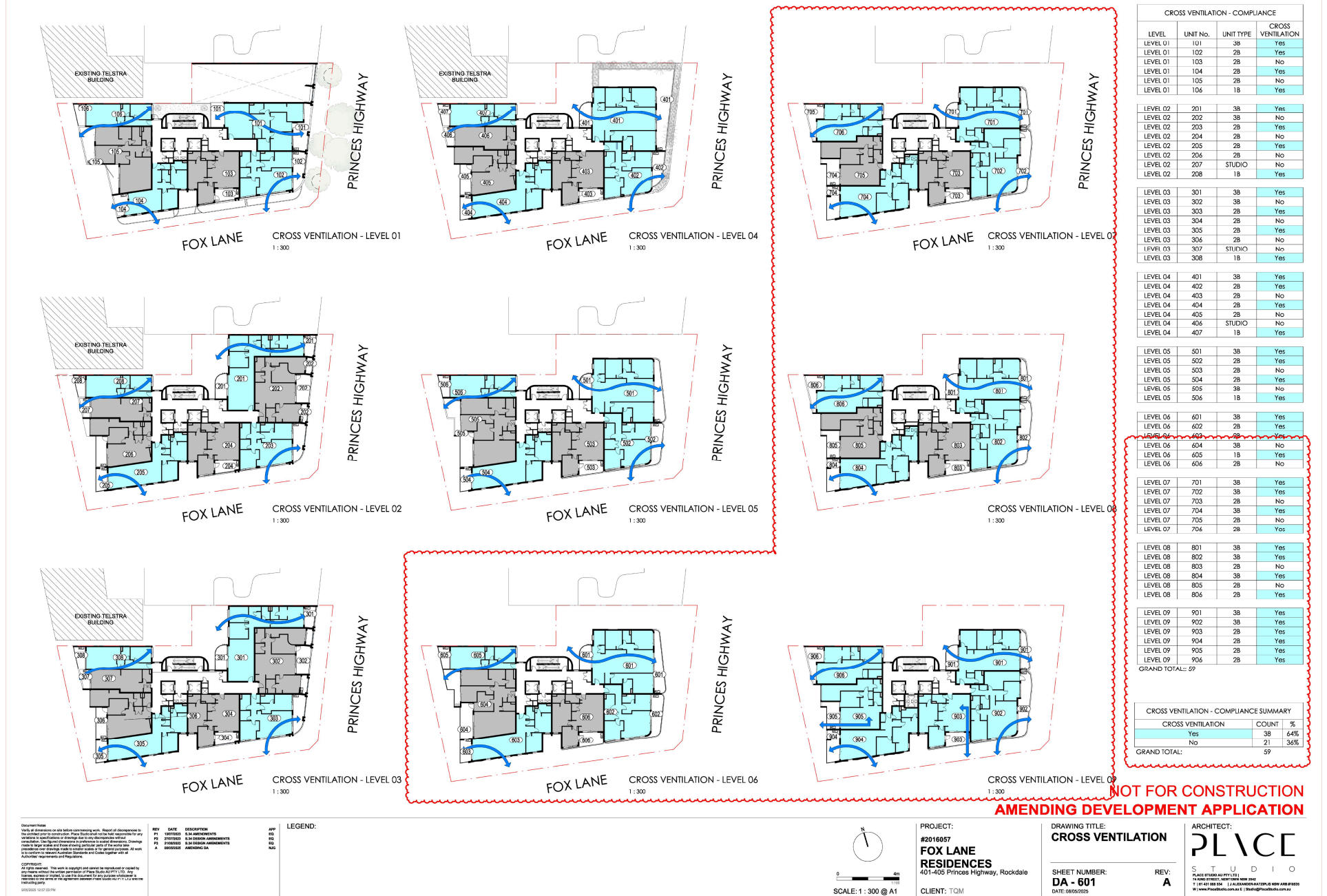
0 1m
SCALE: 1 : 100 @ A1

PROJECT:
#2016057
FOX LANE
RESIDENCES
401-405 Princes Highway, Rockdale
CLIENT: TQM

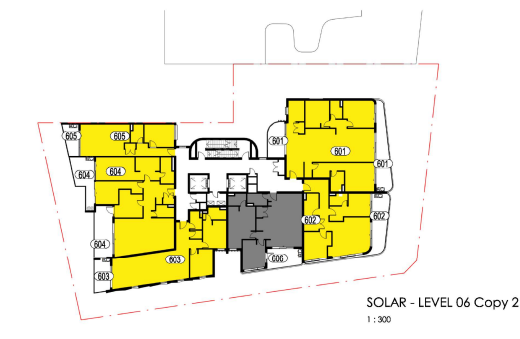
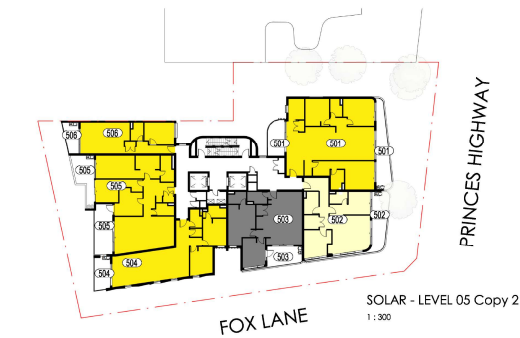
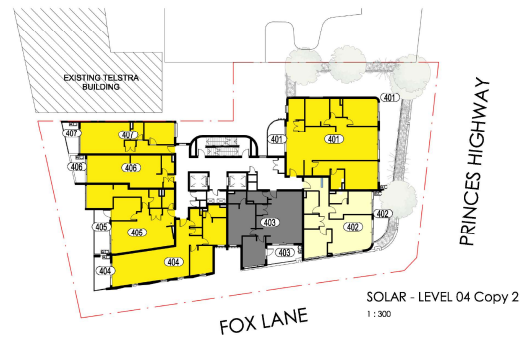
DRAWING TITLE:
ELEVATION - WEST
SHEET NUMBER:
DA - 404
DATE: 08/05/2025

REV: **A**

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
4/80 PRINCES HWY, ROCKDALE NSW 2226
T: 02 951 988 84 F: 02 951 988 85
E: info@placestudio.com.au W: www.placestudio.com.au



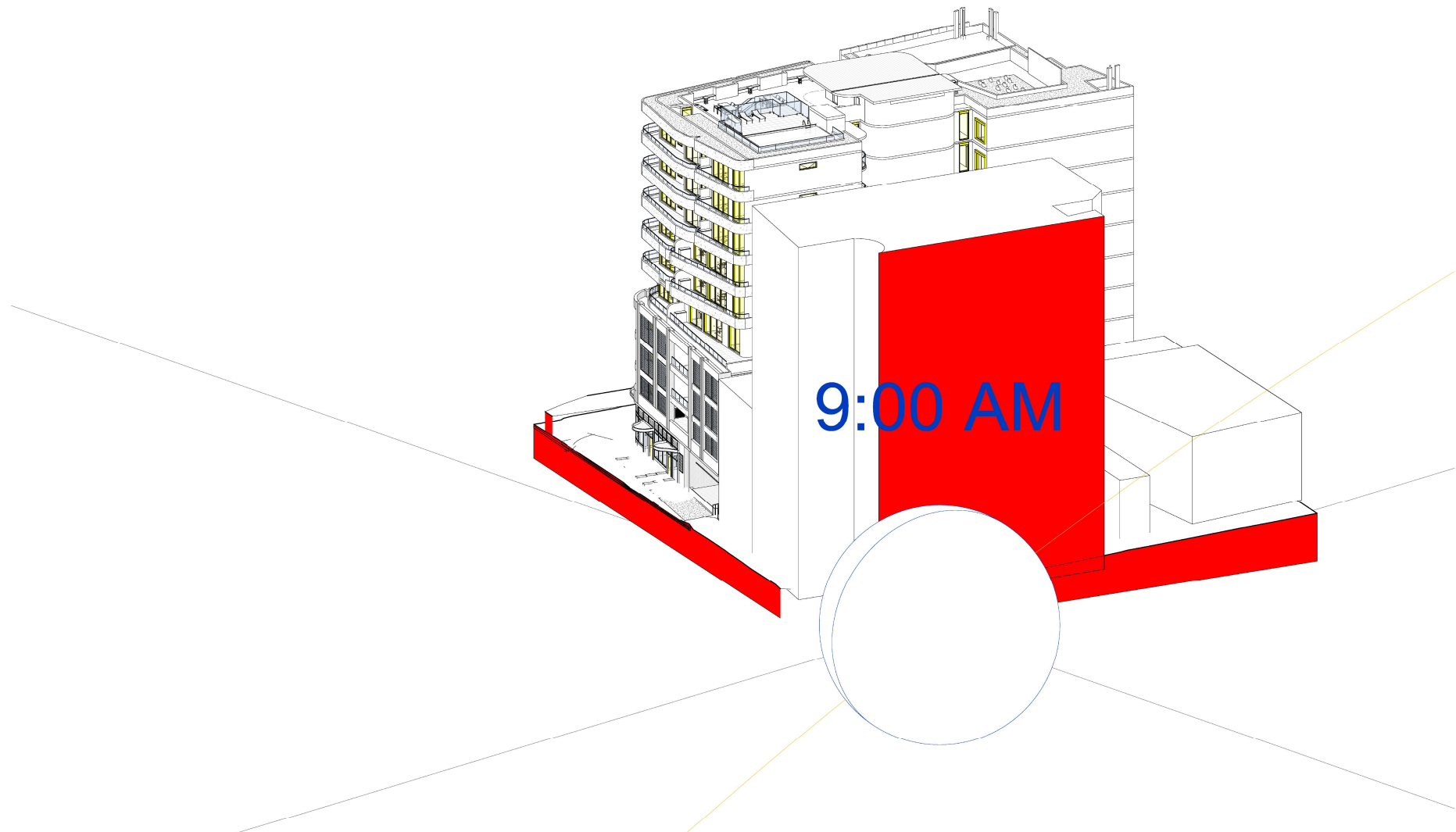




SOLAR ACCESS - COMPLIANCE				
LEVEL	UNIT No.	UNIT TYPE	SOLAR ACCESS	
GROUND FLOOR	912	OSD TANK		
	913	FOGO		
LEVEL 01	101	3B		Yes
LEVEL 01	102	2B	Partial	
LEVEL 01	103	2B	No	
LEVEL 01	104	2B	Partial	
LEVEL 01	105	2B	Yes of 3.15PM	
LEVEL 01	106	1B	Yes of 3.15PM	
LEVEL 02	201	3B		Yes
LEVEL 02	202	3B	Partial	
LEVEL 02	203	2B	Partial	
LEVEL 02	204	2B	No	
LEVEL 02	205	2B		Yes
LEVEL 02	206	2A	Yes of 3.15PM	
LEVEL 02	207	STUDIO	Yes of 3.15PM	
LEVEL 02	208	1B	Yes of 3.15PM	
LEVEL 03	301	3B		Yes
LEVEL 03	302	3B	Partial	
LEVEL 03	303	2B	Partial	
LEVEL 03	304	2B	No	
LEVEL 03	305	2B		Yes
LEVEL 03	306	2B	Yes of 3.15PM	
LEVEL 03	307	STUDIO	Yes of 3.15PM	
LEVEL 03	308	1B	Yes of 3.15PM	
LEVEL 04	401	3B		Yes
LEVEL 04	402	2B	Partial	
LEVEL 04	403	2B	No	
LEVEL 04	404	2B		Yes
LEVEL 04	405	2B	Yes of 3.15PM	
LEVEL 04	406	STUDIO	Yes of 3.15PM	
LEVEL 04	407	1B	Yes of 3.15PM	
LEVEL 05	501	3B		Yes
LEVEL 05	502	2B	Partial	
LEVEL 05	503	2B	No	
LEVEL 05	504	2B	Yes	
LEVEL 05	505	3B	Yes of 3.15PM	
LEVEL 05	506	1B	Yes of 3.15PM	
LEVEL 06	601	3B		Yes
LEVEL 06	602	2B		Yes
LEVEL 06	603	2B		Yes
LEVEL 06	604	3B	Yes of 3.15PM	
LEVEL 06	605	1B	Yes of 3.15PM	
LEVEL 06	606	2B	No	
LEVEL 07	701	3B		Yes
LEVEL 07	702	3B		Yes
LEVEL 07	703	2B	No	
LEVEL 07	704	3B		Yes
LEVEL 07	705	2B	Yes of 3.15PM	
LEVEL 07	706	2B	Yes of 3.15PM	
LEVEL 08	801	3B		Yes
LEVEL 08	802	3B		Yes
LEVEL 08	803	2B		Yes
LEVEL 08	804	3B		No
LEVEL 08	805	2B	Yes of 3.15PM	
LEVEL 08	806	2B	Yes of 3.15PM	
LEVEL 09	901	3B		Yes
LEVEL 09	902	3B		Yes
LEVEL 09	903	2B		Yes
LEVEL 09	904	2B		Yes
LEVEL 09	905	2B		Yes
GRAND TOTAL: 59				
Yes of 3.15PM		Count	%	
Yes		24	41%	
Partial		8	14%	
No		8	14%	
GRAND TOTAL:		59		

**NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION**

[illegible]



**NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION**

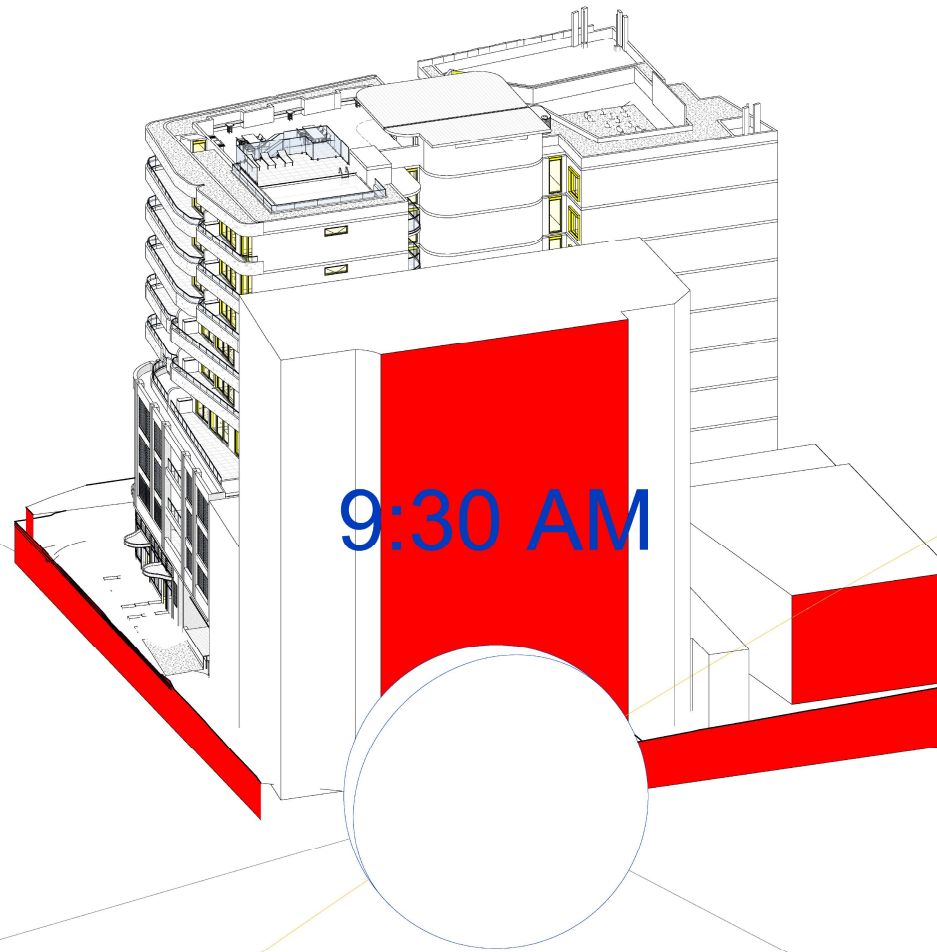
Disclaimer: This drawing is for information only. It is not to be used for construction. The client is responsible for ensuring that the drawing is used for the intended purpose. The client is also responsible for ensuring that the drawing is used in accordance with the relevant legislation and standards. The client is also responsible for ensuring that the drawing is used in accordance with the relevant legislation and standards.			
REV	DATE	DESCRIPTION	APP
P1	10/01/2025	0.01 AMENDMENTS	DS
P2	10/01/2025	0.02 DESIGN AMENDMENTS	DS
P3	10/01/2025	0.03 DESIGN AMENDMENTS	DS
A	06/05/2025	AMENDING	DS

LEGEND:

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 9.00 AM**
SHEET NUMBER:
DA - 604
DATE: 06/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
10/01/2025, 10/01/2025, 10/01/2025
10/01/2025, 10/01/2025, 10/01/2025
10/01/2025, 10/01/2025, 10/01/2025



NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	05
P2	2/11/2025	0.01 DESIGN AMENDMENTS	02
P3	2/10/2025	0.01 DESIGN AMENDMENTS	02
A	05/05/2025	AMENDING.DA	02

LEGEND:

APP
05
02
02

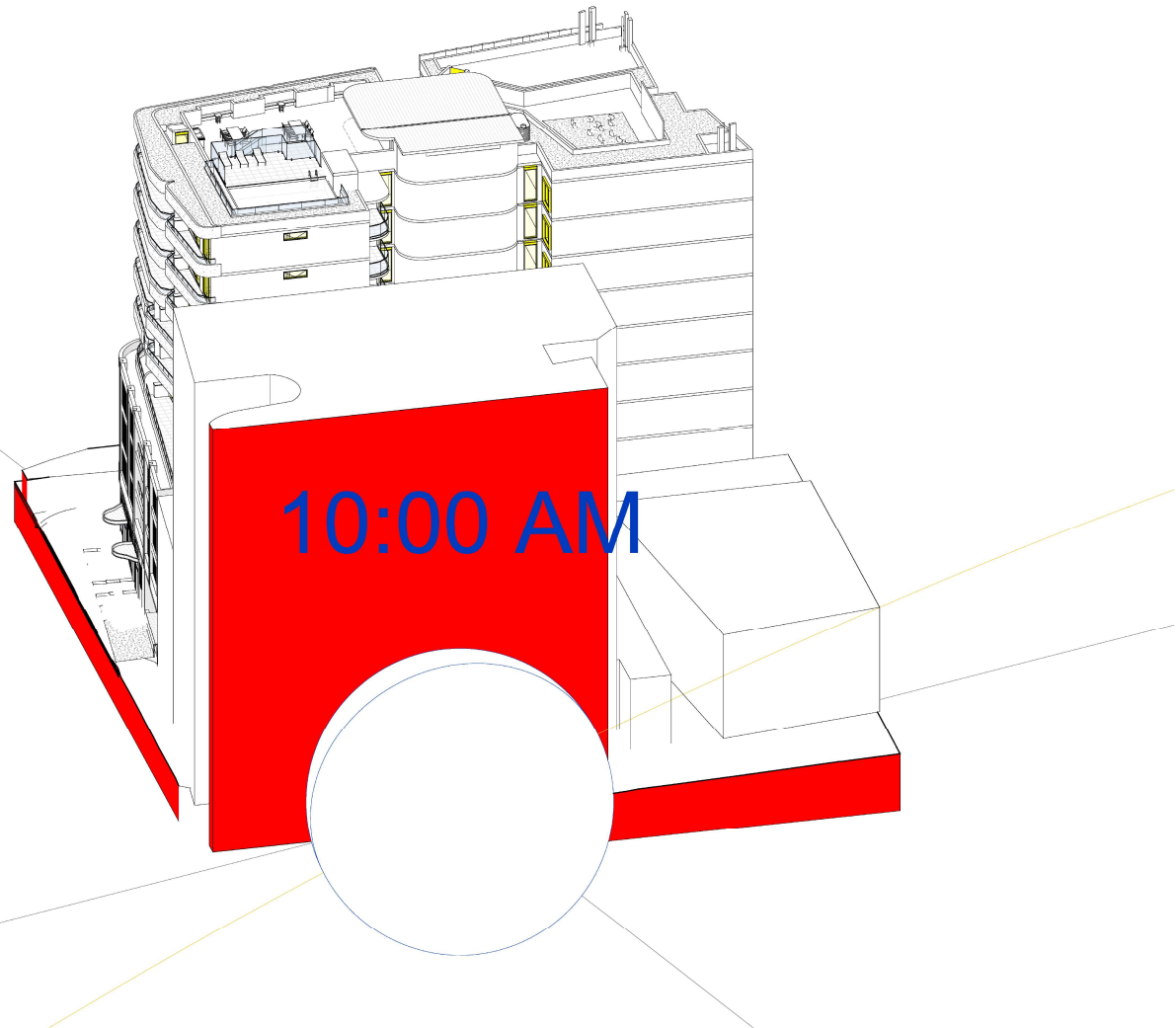
Disclaimer: This drawing is for information only. It is not to be used for construction. The client is responsible for ensuring that the drawing is used for the intended purpose. The client is responsible for ensuring that the drawing is used for the intended purpose. The client is responsible for ensuring that the drawing is used for the intended purpose.

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 9.30 AM**
SHEET NUMBER:
DA - 605
DATE: 05/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/100-110/112, NEWCASTLE ROAD
1/100-110/112, NEWCASTLE ROAD

REV: **A**



NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	05
P2	2/11/2025	0.02 DESIGN AMENDMENTS	02
P3	2/10/2025	0.03 DESIGN AMENDMENTS	02
A	05/05/2025	AMENDING.DA	02

LEGEND:

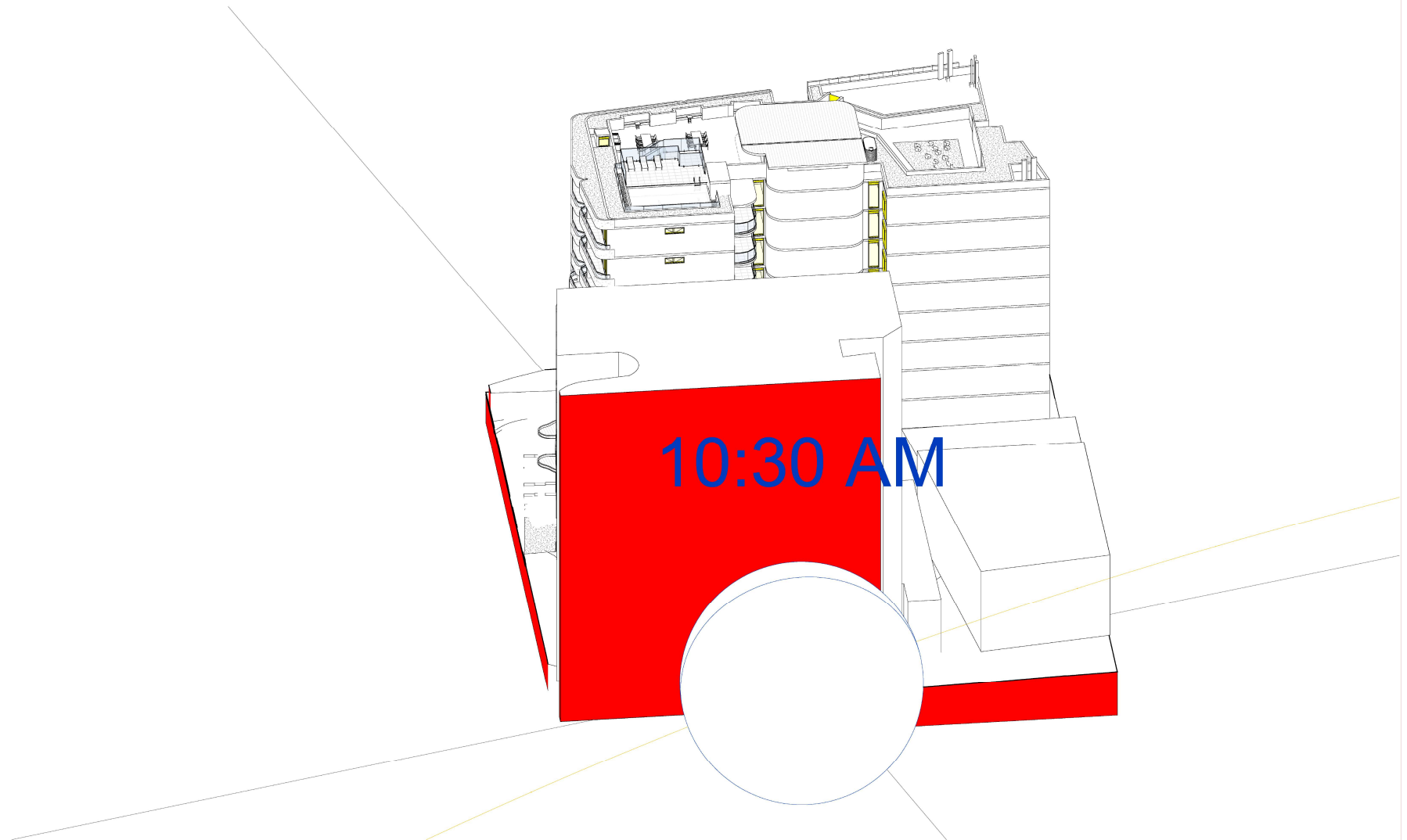
APP
05
02
02
02

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 10.00 AM**
SHEET NUMBER:
DA - 606
DATE: 06/05/2025

REV:
A

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
1/11-11/115 BAY
W: www.PlaceStudio.com.au E: studio@PlaceStudio.com.au



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AMENDING DEVELOPMENT APPLICATION**

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REV	DATE	DESCRIPTION	APP
P1	10/01/2025	0.01 AMENDMENTS	05
P2	10/01/2025	0.02 AMENDMENTS	02
P3	10/01/2025	0.03 AMENDMENTS	02
A	06/05/2025	AMENDING	02

LEGEND:

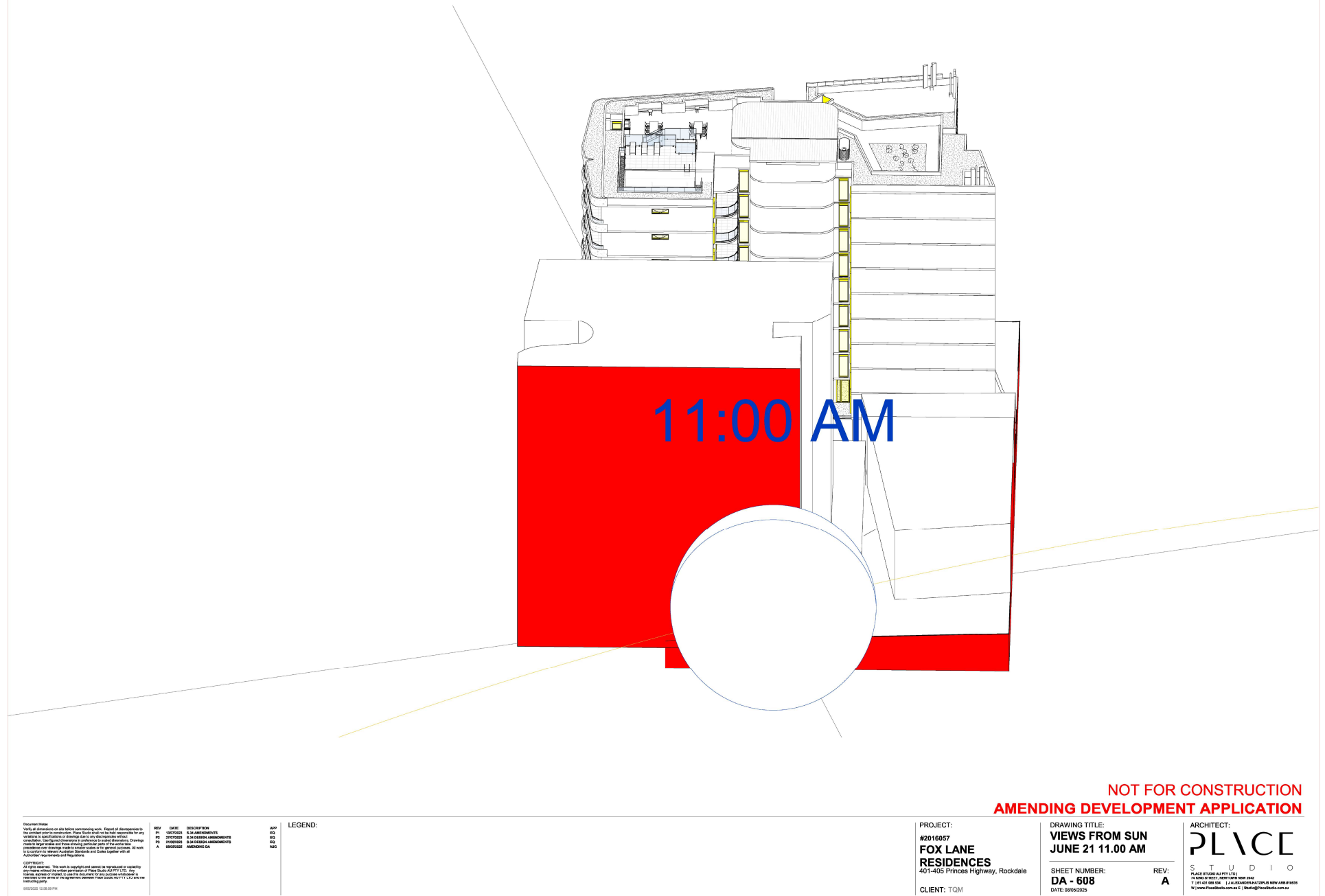
APP
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02
02
02

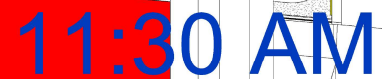
PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 10.30 AM**
SHEET NUMBER:
DA - 607
DATE: 06/05/2025

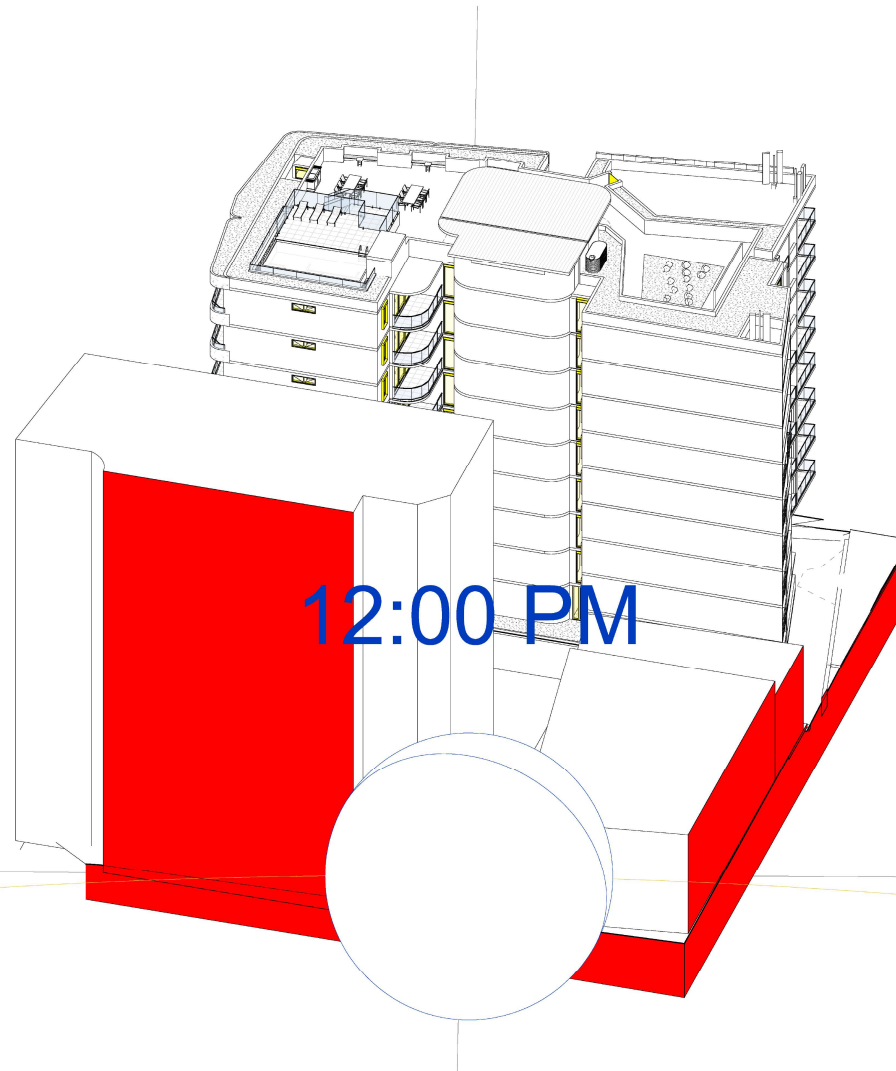
REV:
A

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
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PLACE STUDIO AU PTEY LTD |
14 KING STREET, NORTHDAWN NSW 2042
T | 61 431 068 534 | ALEXANDER.HATZIDIS@PLACESTUDIO.COM.AU
W | www.PlaceStudio.com.au | Studio@PlaceStudio.com.au



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REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	05
P2	2/11/2025	0.02 DESIGN AMENDMENTS	02
P3	2/10/2025	0.03 DESIGN AMENDMENTS	02
A	05/05/2025	AMENDING.DA	02

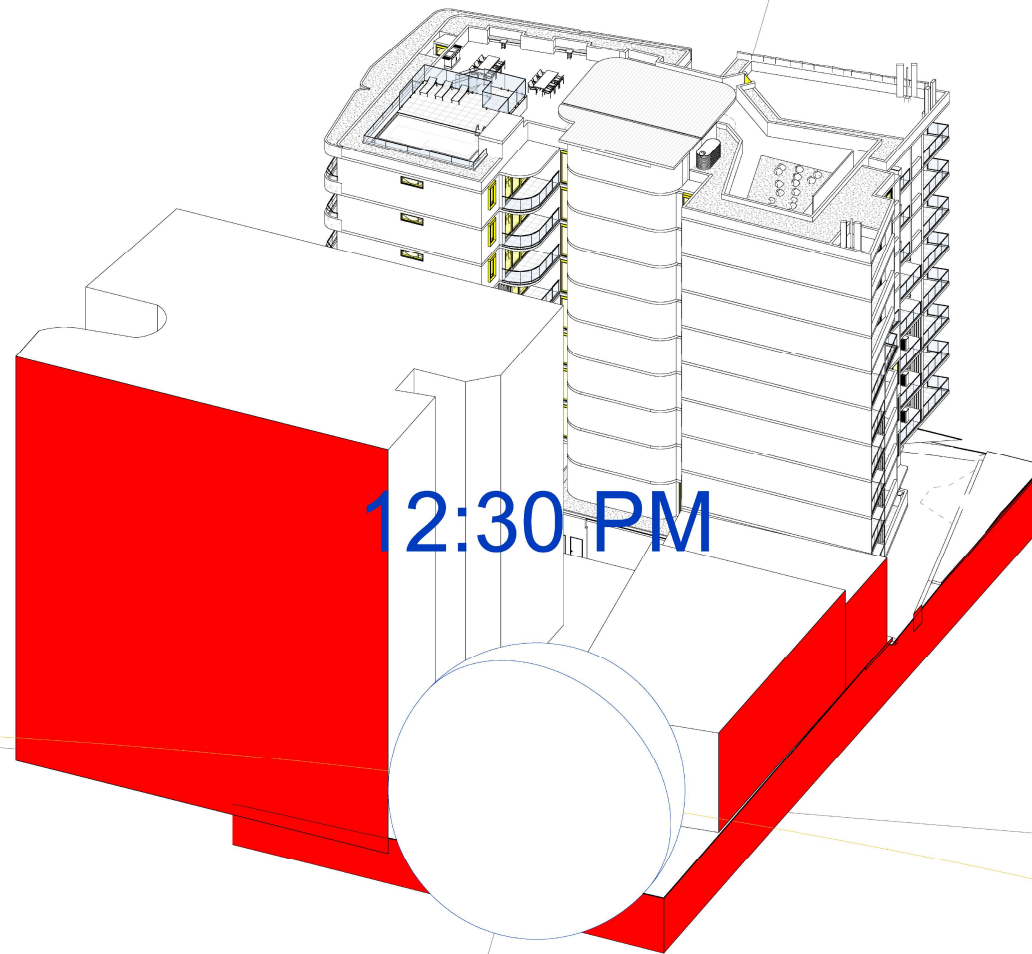
LEGEND:

APP
05
02
02
02

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 12.00 PM**
SHEET NUMBER:
DA - 610
DATE: 06/05/2025

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PLACE STUDIO AU PTY LTD
1/100-110/112, NEWCASTLE ROAD
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W: www.placestudio.com.au E: studio@placestudio.com.au



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REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	05
P2	1/11/2025	0.01 DESIGN AMENDMENTS	02
P3	1/10/2025	0.01 DESIGN AMENDMENTS	02
A	05/05/2025	AMENDING DA	02

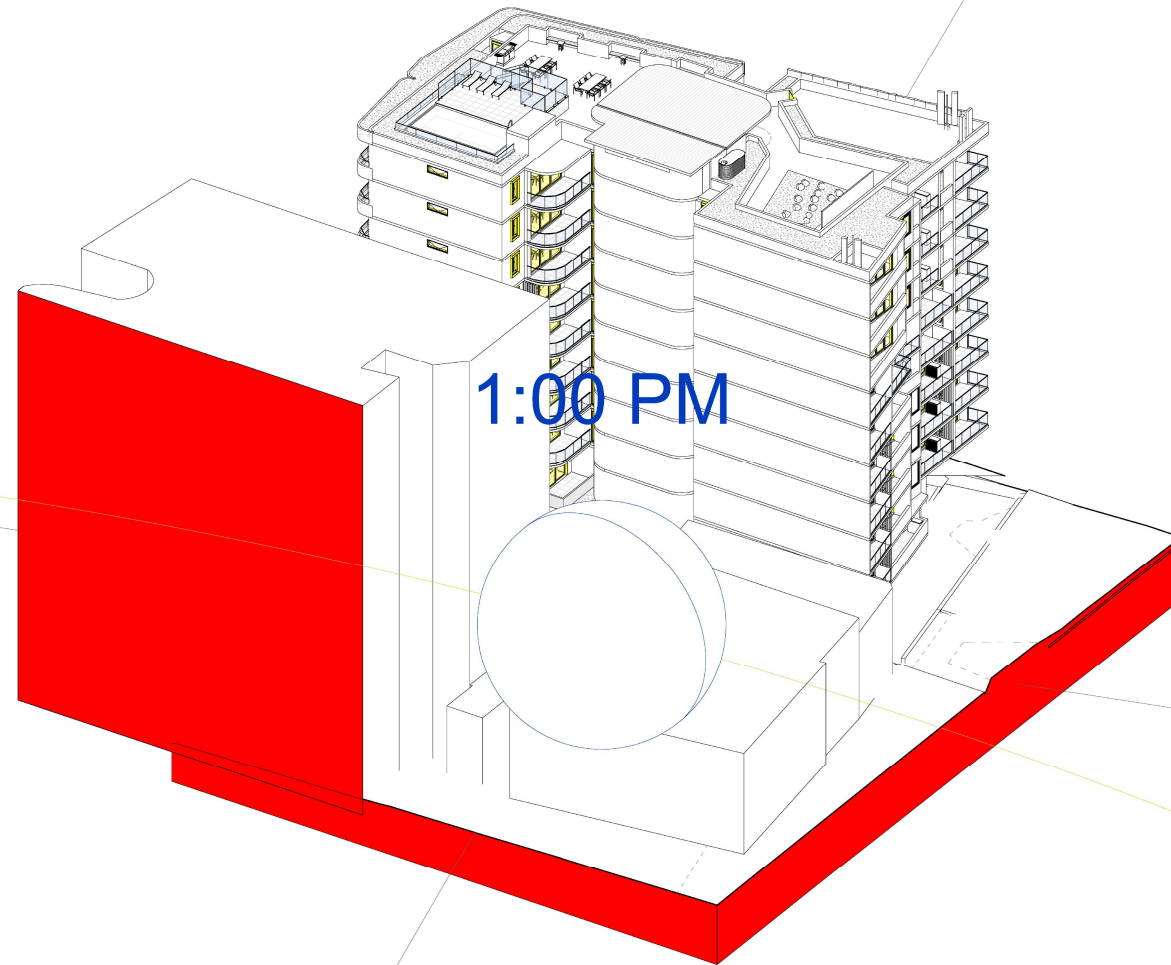
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PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

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**VIEWS FROM SUN
JUNE 21 12.30 PM**
SHEET NUMBER:
DA - 611
DATE: 05/05/2025

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1/100-110/112, NEWCASTLE ROAD
SYDNEY NSW 1585
T: 02 931 085 000 F: 02 931 085 000
W: www.placestudio.com.au E: studio@placestudio.com.au



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REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	05
P2	2/11/2025	0.02 DESIGN AMENDMENTS	02
P3	2/10/2025	0.03 DESIGN AMENDMENTS	02
A	05/05/2025	AMENDING.DA	02

LEGEND:

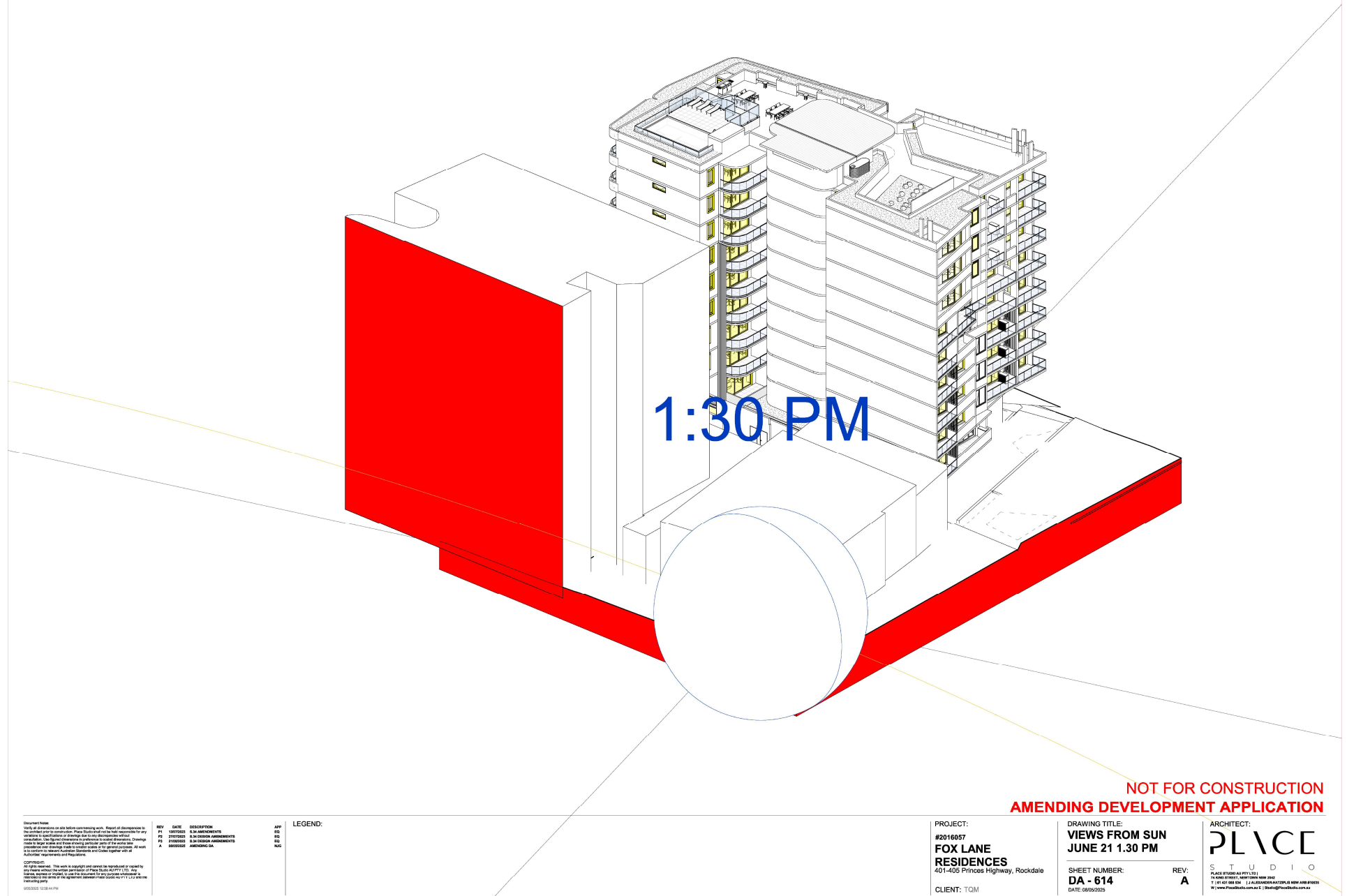
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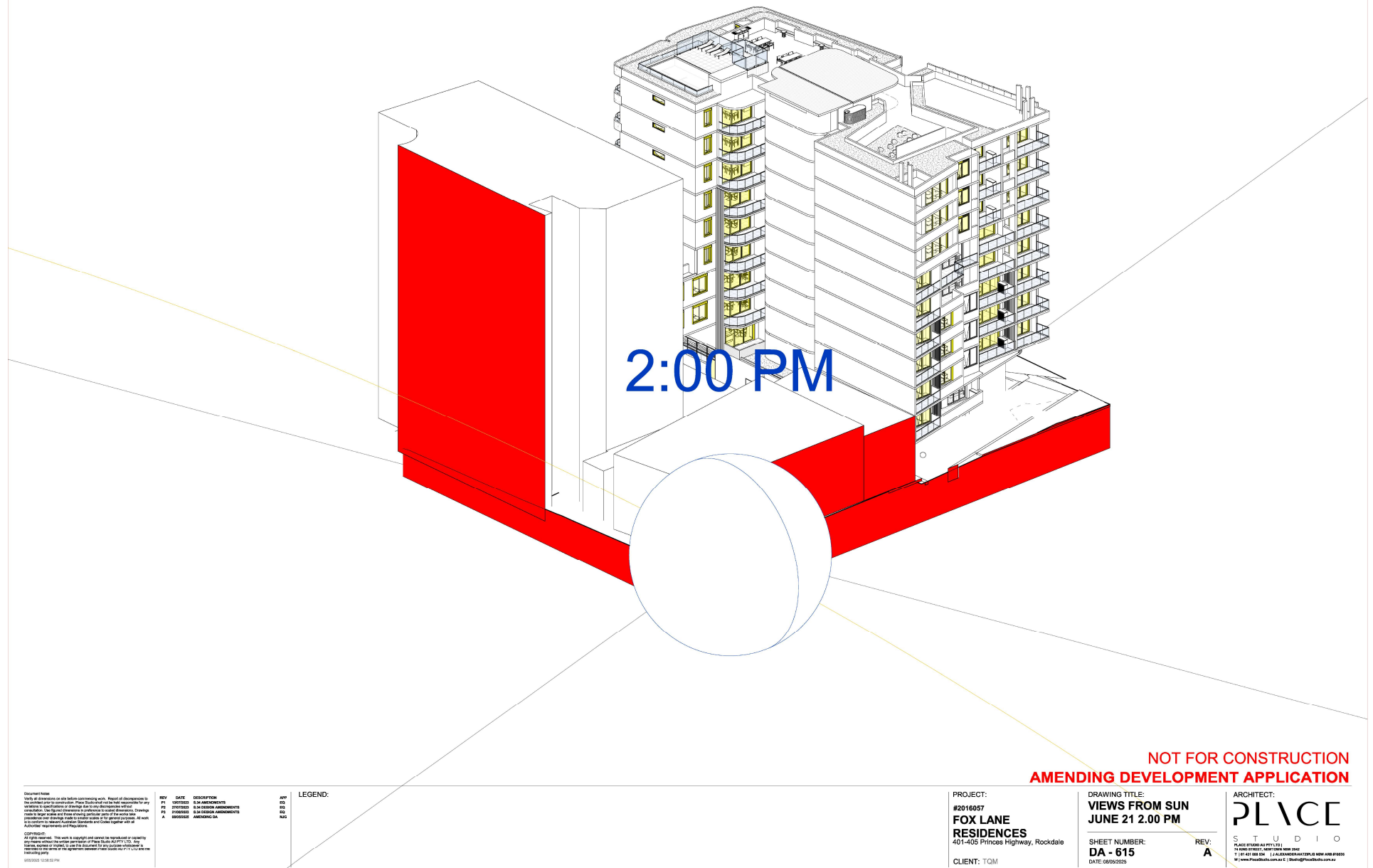
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#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

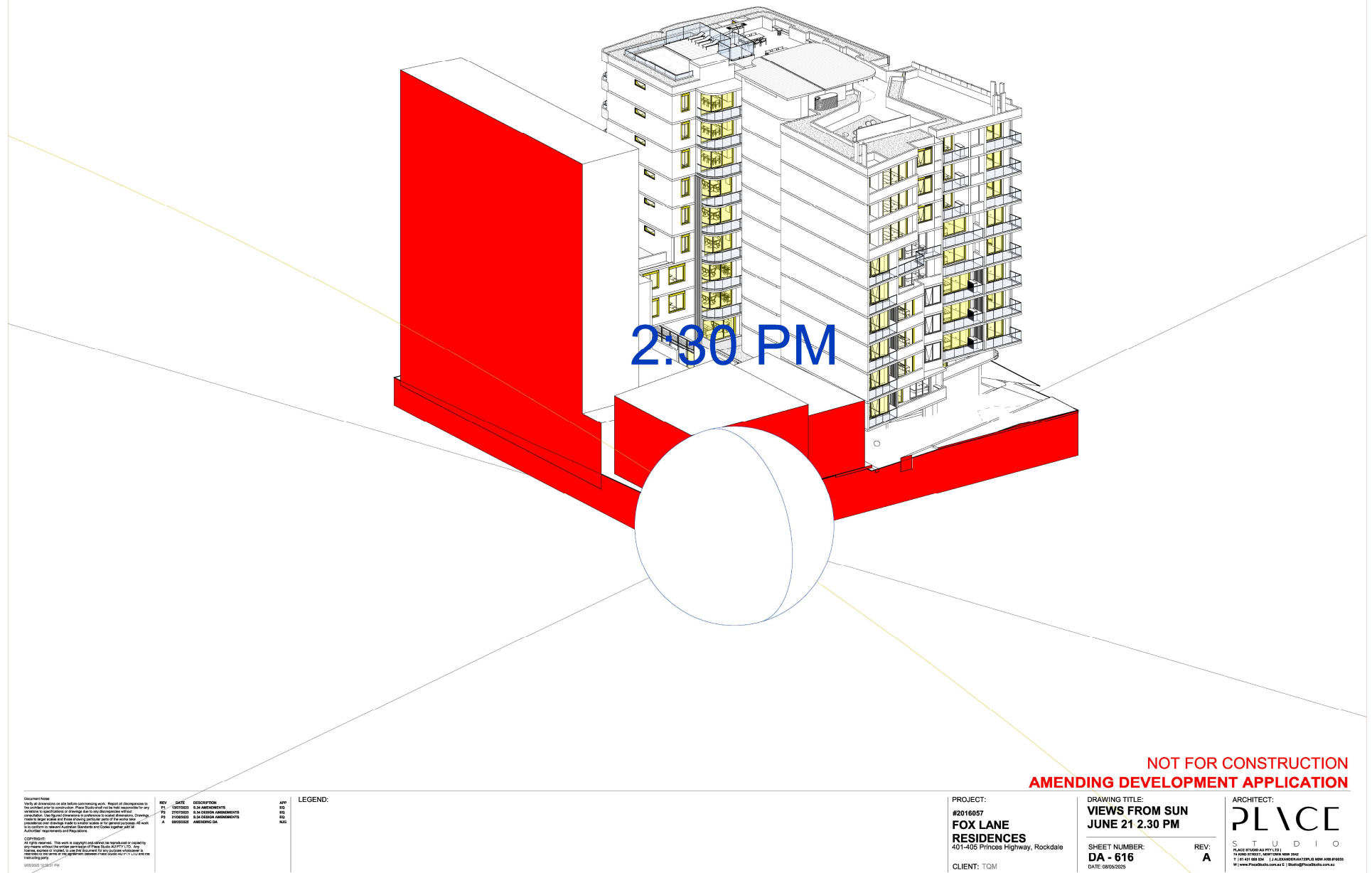
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DA - 612
DATE: 08/05/2025

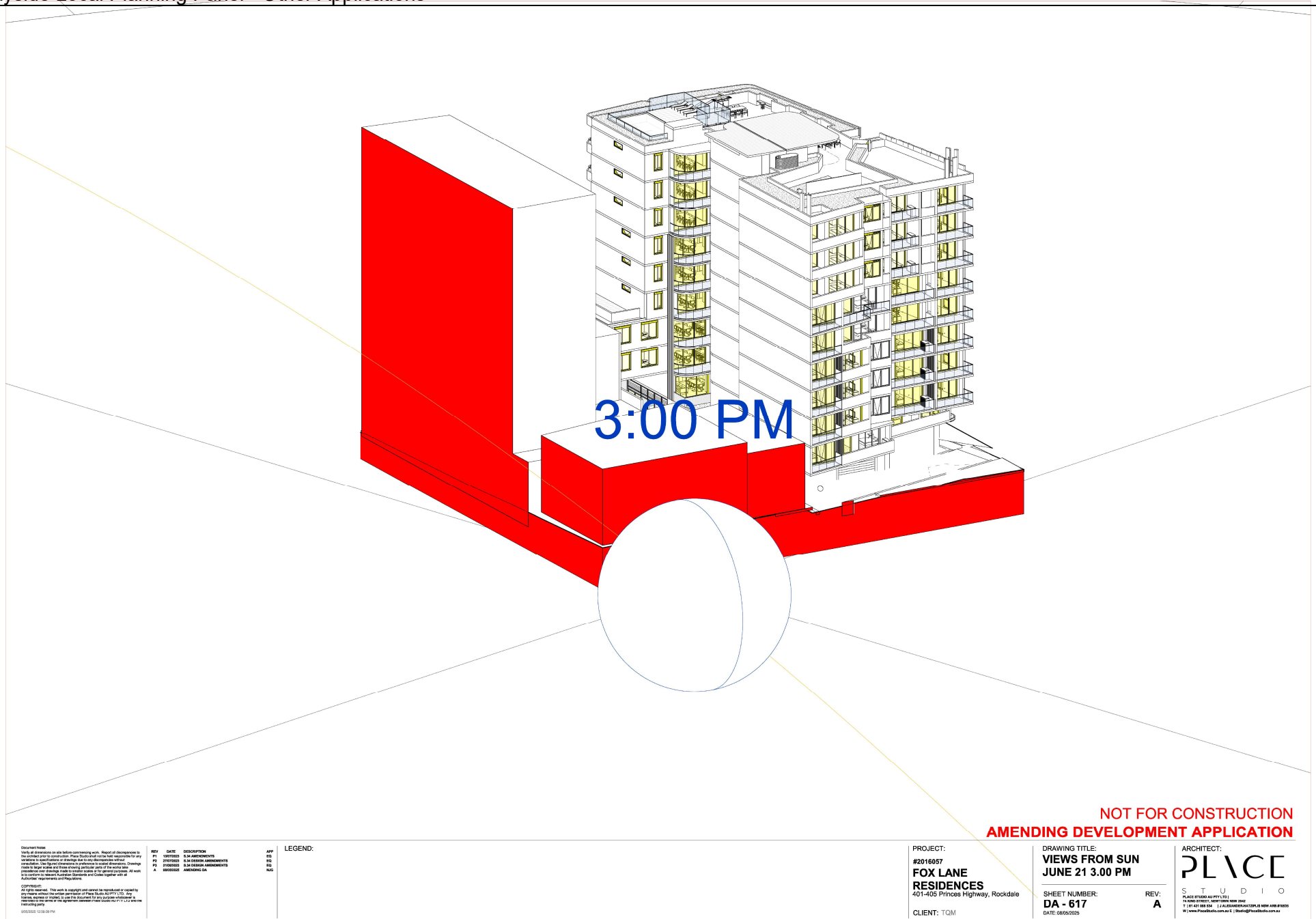
REV:
A

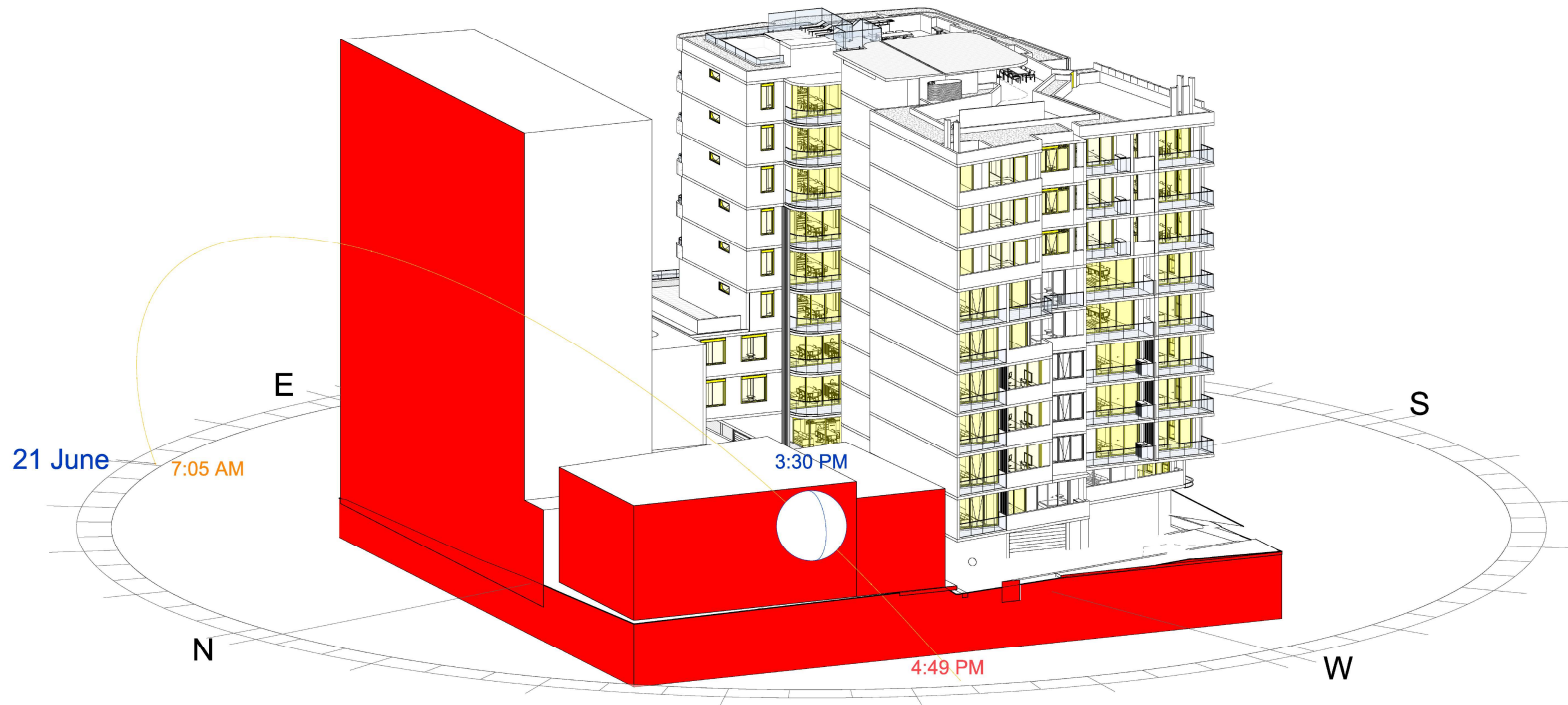
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REV	DATE	DESCRIPTION	APP	LEGEND:
P1	21/06/2025	S.34 DESIGN AMENDMENTS	MS	
A	06/09/2025	FINAL DESIGN	MS	

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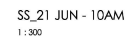
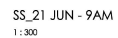
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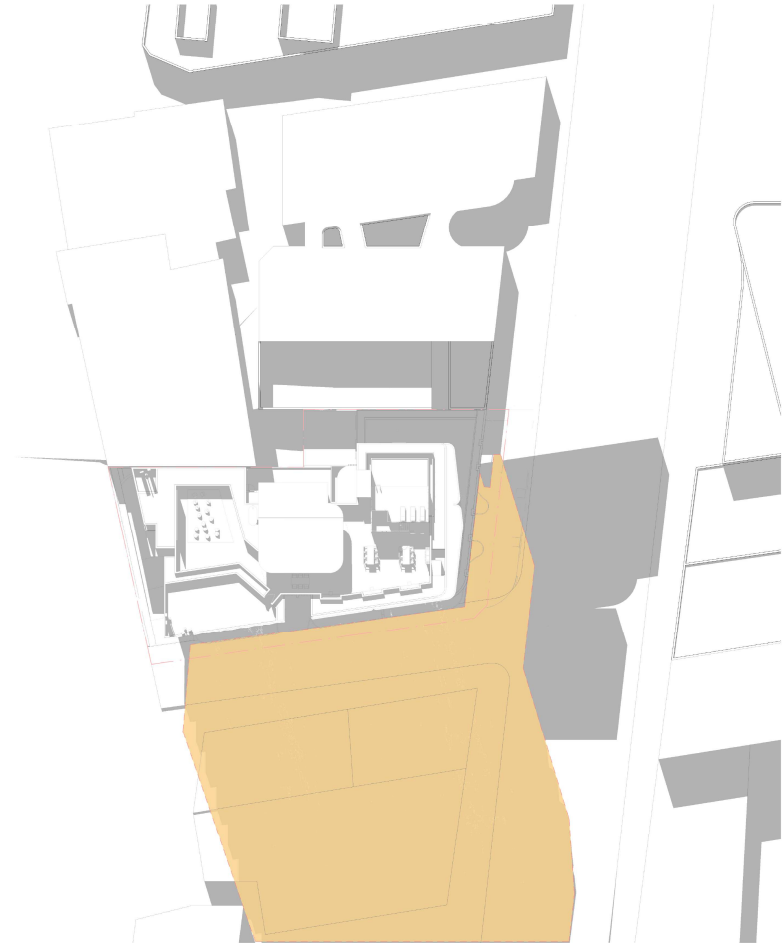
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PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**VIEWS FROM SUN
JUNE 21 3.30 PM**
SHEET NUMBER:
DA - 618
DATE: 06/09/2025

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4/105-111/113, NEWCASTLE ROAD
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T: 02 931 085 844 F: 02 931 085 844
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[illegible]



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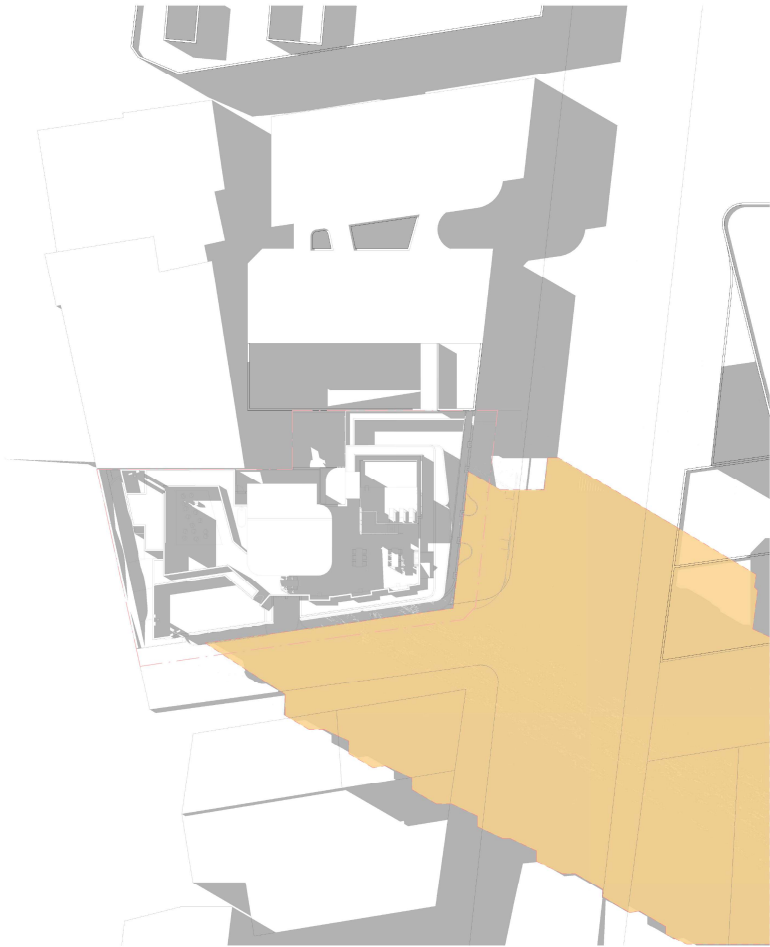
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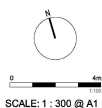
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REV	DATE	DESCRIPTION
A	20/05/2025	AMENDING DA

APP
N/A

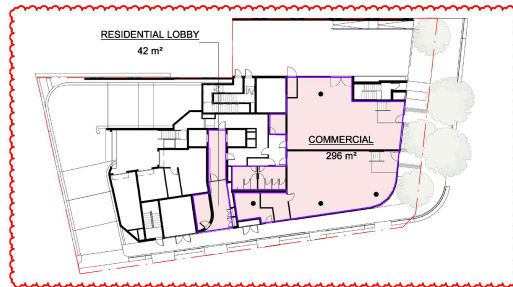
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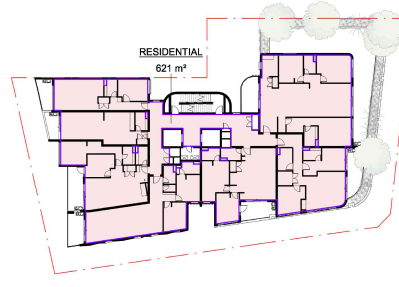
PROJECT:
#2016057
**FOX LANE
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401-405 Princes Highway, Rockdale
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DRAWING TITLE:
SHADOW DIAGRAM
SHEET NUMBER:
DA - 622
DATE: 08/05/2025

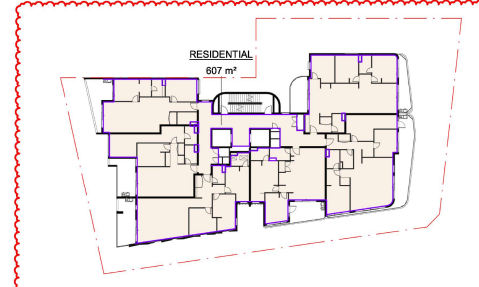
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PLACE PTY LTD
1/400 STIRLING STREET, NEWCASTLE NSW 2300
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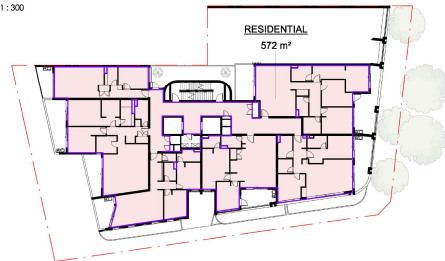
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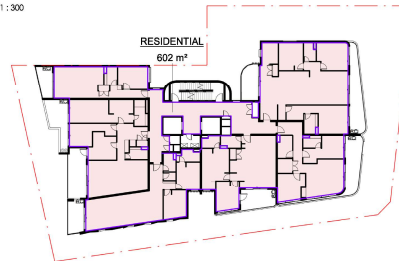
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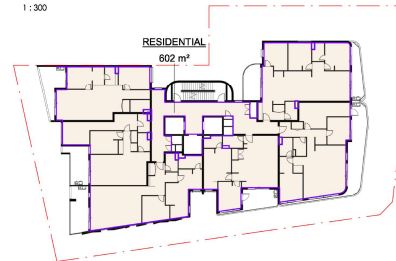
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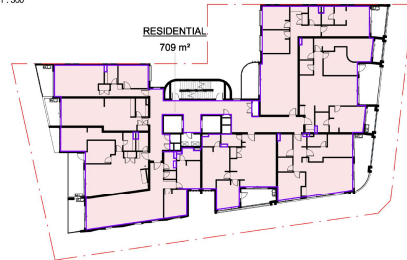
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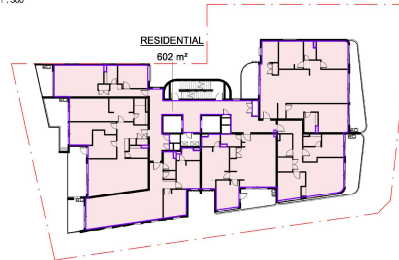
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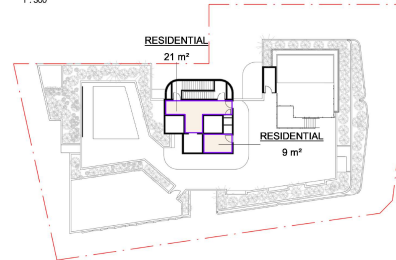
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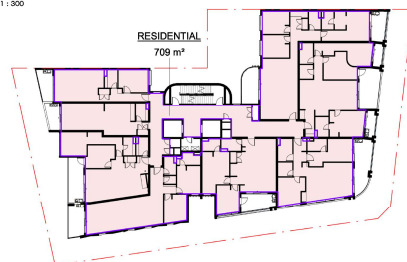
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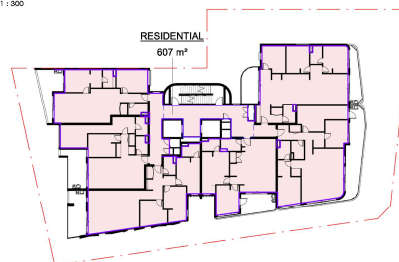
GFA - LEVEL 06
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GFA - ROOF LEVEL
1:300



GFA - LEVEL 03
1:300



GFA - LEVEL 07
1:300

GROSS FLOOR AREA CALCULATIONS	
LEVEL	AREA
GROUND FLOOR (COMMERCIAL)	296 m²
GROUND FLOOR (RESIDENTIAL)	42 m²
LEVEL 01	572 m²
LEVEL 02	709 m²
LEVEL 03	709 m²
LEVEL 04	621 m²
LEVEL 05	602 m²
LEVEL 06	602 m²
LEVEL 07	607 m²
LEVEL 08	607 m²
LEVEL 09	602 m²
ROOF LEVEL	21 m²
ROOF LEVEL	9 m²
TOTAL GFA	5999 m²

TOTAL SITE AREA = 1305.754 m²	
APPROVED DA GFA = 4197 m²	PROPOSED GFA = 6009 m²
APPROVED DA FSR = 3.2:1	PROPOSED FSR = 4.6:1

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AMENDING DEVELOPMENT APPLICATION

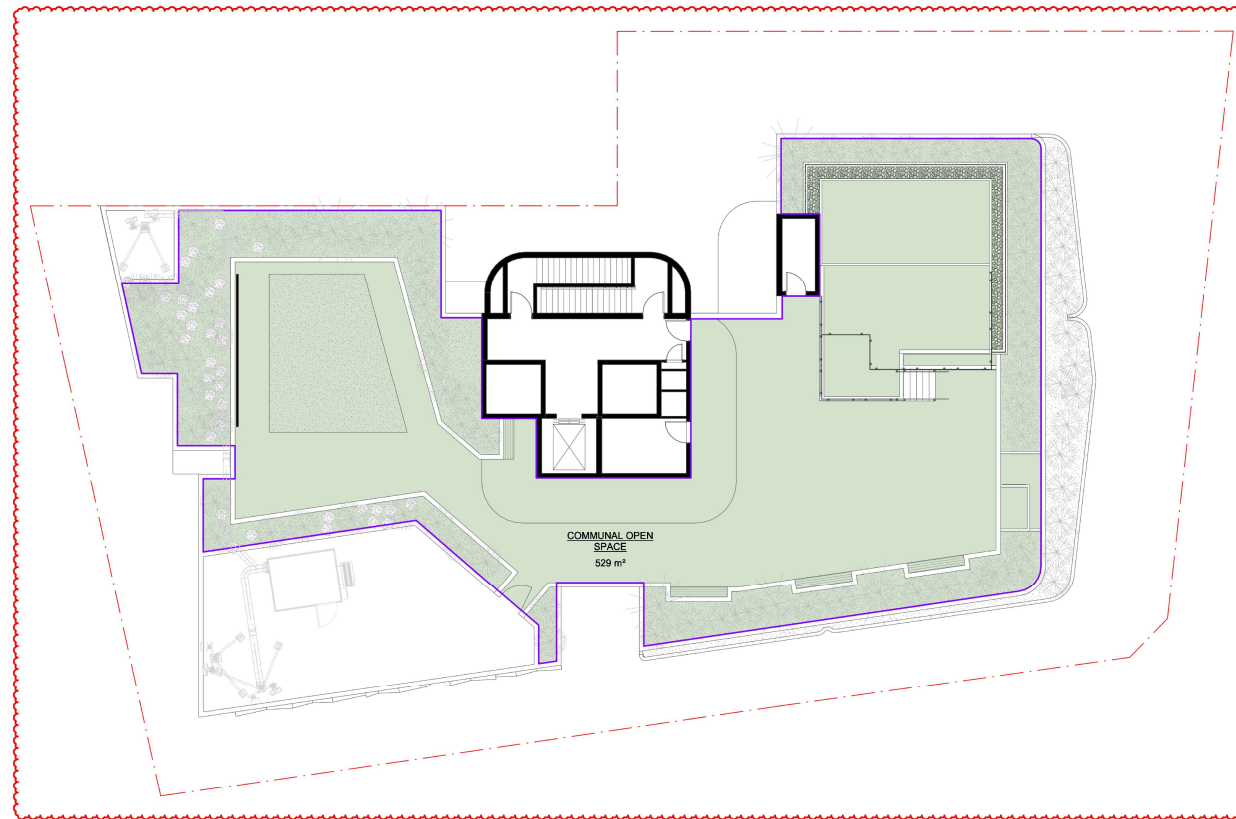
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PLANS	P1	10/05/2023	DA AMENDMENTS	03
PLANS	P2	01/05/2024	DA AMENDMENTS	04
PLANS	P3	21/08/2024	DA AMENDMENTS	05
PLANS	P4	05/05/2025	AMENDING DA	06

LEGEND:

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-405 Princes Highway, Rockdale
CLIENT: TOM

DRAWING TITLE:
**GFA CALCULATION
PLANS**
SHEET NUMBER:
DA - 630
DATE: 05/05/2025

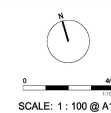
ARCHITECT:
PLACE
STUDIO
PLACE STUDIO ARCH PTY LTD
1/100-110 Princes Highway, Rockdale NSW 2226
T: 02 401 88 88 F: 02 401 88 89
www.placestudio.com.au E: info@placestudio.com.au



COMMUNAL OPEN SPACE CALCULATION	
TOTAL SITE AREA =	1305.754 m ²
ADG GUIDELINE FOR COMMUNAL OPEN SPACE = 25% OF TOTAL SITE AREA :	326.4385 m ²
PROPOSED COMMUNAL OPEN SPACE =	529 m ²

REV	DATE	DESCRIPTION	APP
P1	1/01/2025	0.01 AMENDMENTS	MS
P2	2/11/2025	0.02 DESIGN AMENDMENTS	MS
P3	2/11/2025	0.03 DESIGN AMENDMENTS	MS
A	05/05/2025	AMENDMENTS	MS

LEGEND:

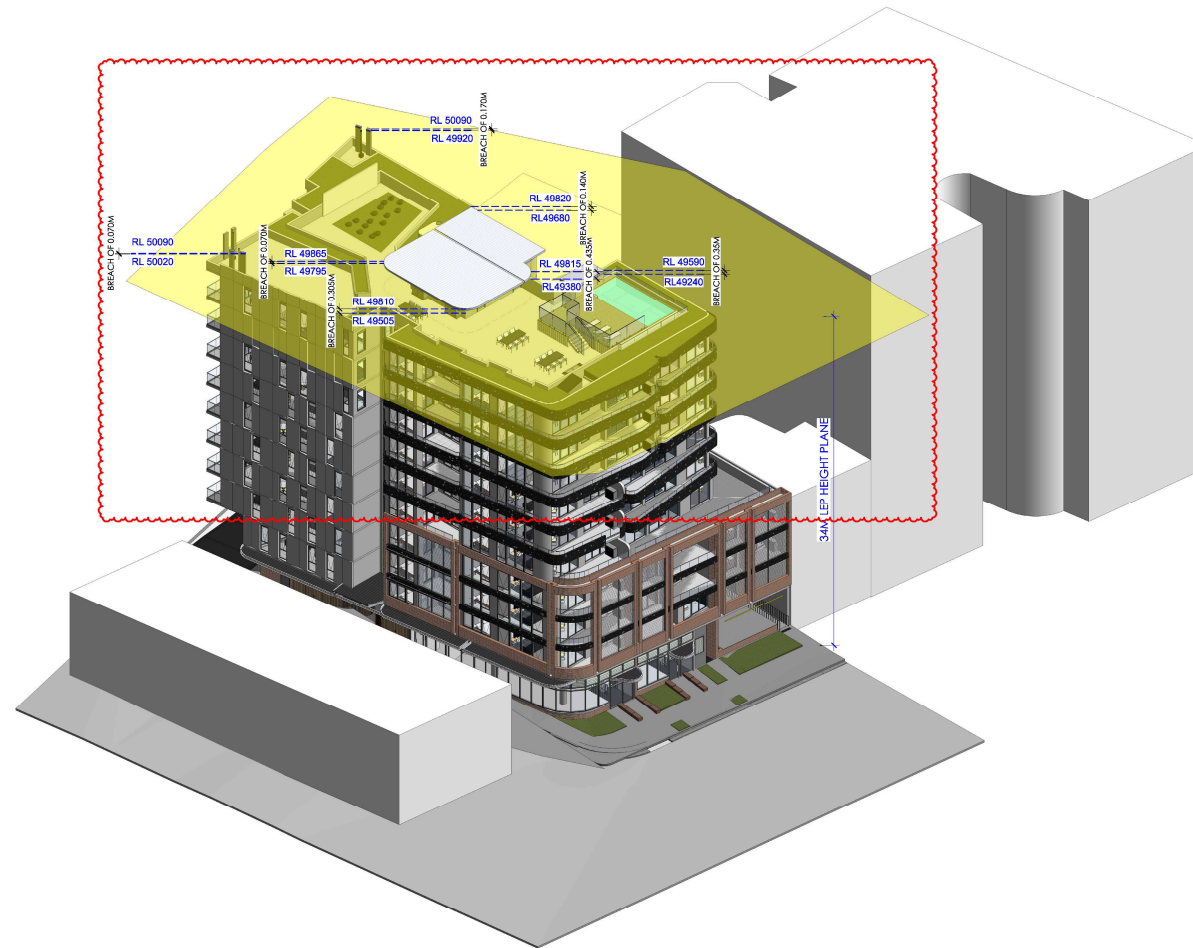


PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
**COMMUNAL OPEN
SPACE**
SHEET NUMBER:
DA - 635
DATE: 08/05/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
1/400-410 Princes Highway, Rockdale NSW 2222
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W: www.placestudio.com.au

**NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION**



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2025-10-13 02:11 PM

REV	DATE	DESCRIPTION	APP
P1	13/10/2025	0.34 AMENDMENTS	DS
P2	21/10/2025	0.34 DESIGN AMENDMENTS	DS
P3	21/10/2025	0.34 DESIGN AMENDMENTS	DS
A	09/09/2025	AMENDING DA	MS

LEGEND:

PROJECT:
#2016057
FOX LANE
RESIDENCES
401-405 Princes Highway, Rockdale
CLIENT: TOM

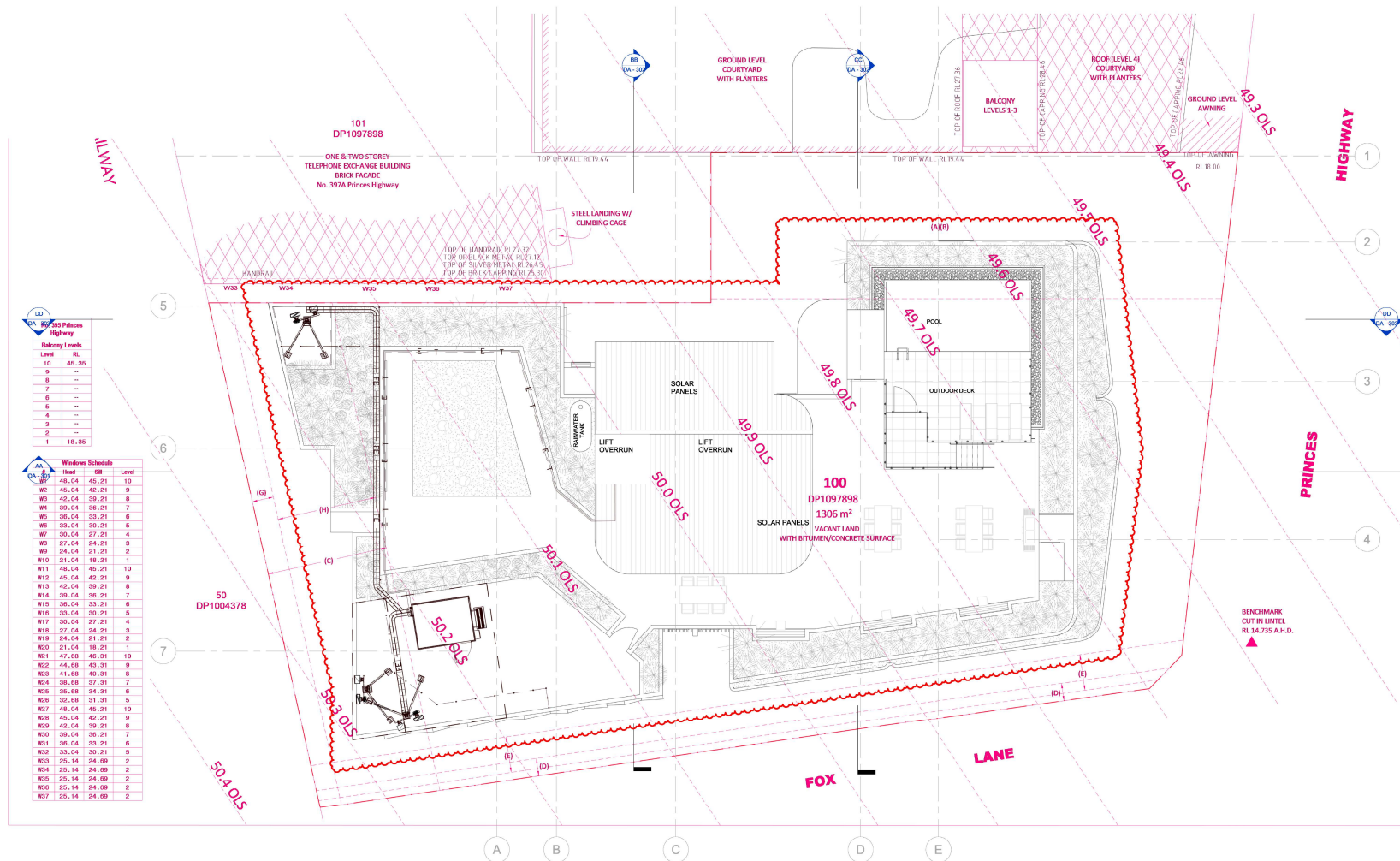
DRAWING TITLE:
LEP HEIGHT PLANE
DIAGRAM

SHEET NUMBER:
DA - 640

DATE: 09/09/2025

REV:
A

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
4/800 STIRLING, NEWCASTLE NSW 2260
T (01 431 888 841) F (01 431 888 841) E info@placestudio.com.au
W www.placestudio.com.au



Balcony Levels

Level	RL
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9	--
8	--
7	--
6	--
5	--
4	--
3	--
2	--
1	18.35

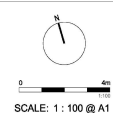
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8	42.04	39.21
7	39.04	36.21
6	36.04	33.21
5	33.04	30.21
4	30.04	27.21
3	27.04	24.21
2	24.04	21.21
1	21.04	18.21
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9	43.04	40.21
8	40.04	37.21
7	37.04	34.21
6	34.04	31.21
5	31.04	28.21
4	28.04	25.21
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2	22.04	19.21
1	19.04	16.21
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2	20.04	17.21
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**NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION**

Document Name: Bayside Council - 401-406 Princes Highway
Project: FOX LANE RESIDENCES
Client: TQM
Architect: PLACE
Engineer: PLACE
Surveyor: PLACE
Designer: PLACE
Checker: PLACE
Approver: PLACE
Date: 28/10/2025
Scale: 1:100 @ A1
Sheet: 1 of 1

LEGEND:



PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

DRAWING TITLE:
OLS HEIGHT PLANE -
PLAN
SHEET NUMBER:
DA - 642
DATE: 28/10/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
401-406 PRINCES HWY, ROCKDALE NSW 2222
T: 02 9511 8814 F: 02 9511 8815
W: www.placestudio.com.au E: info@placestudio.com.au



NOT FOR CONSTRUCTION
AMENDING DEVELOPMENT APPLICATION

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REV	DATE	DESCRIPTION
A	28/10/2025	AMENDING DA

LEGEND:

APP
NOS

0 5m 10m
SCALE: @ A1

PROJECT:
#2016057
**FOX LANE
RESIDENCES**
401-406 Princes Highway, Rockdale
CLIENT: TQM

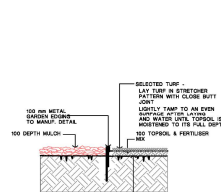
DRAWING TITLE:
PERSPECTIVE
SHEET NUMBER:
DA - 700
DATE: 28/10/2025

ARCHITECT:
PLACE
STUDIO
PLACE STUDIO AU PTY LTD
4/100-110/112, NEWCASTLE ROAD
SYDNEY NSW 1580
T: 02 931 085 000 F: 02 931 085 000
W: www.placestudio.com.au E: studio@placestudio.com.au

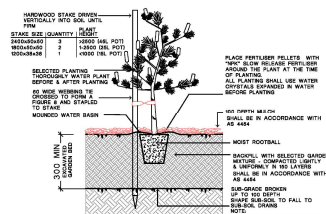
PROPOSED MIXED USE DEVELOPMENT (DA Application)

DRAWING SCHEDULE

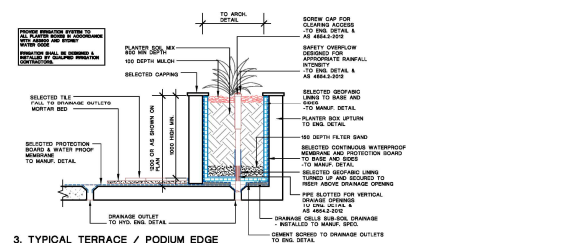
DRAWING NO:	DRAWING TITLE	
22146 DA 1/4	LEGEND/ DETAILS / PLANT SCHEDULE	
22146 DA 2/4	GROUND LEVEL	LANDSCAPE PLAN
22146 DA 3/4	LEVEL 4	LANDSCAPE PLAN
22146 DA 4/4	LEVEL 10	LANDSCAPE PLAN



1. TURF & METAL GARDEN EDGE DETAIL



2. TREE & SHRUB PLANTING IN GARDEN BED ©



3. TYPICAL TERRACE / PODIUM EDGE PLANTER BOX DETAIL

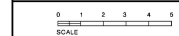
REV	DESCRIPTION	REVISION DATE
F	AMEND AS PER ARCH CHG FOR NEW DA (ADD 3 LEVELS)	28.1.25

NOTE:

1. In the event of any inconsistency between the provisions of this Code and the Landscape plan shall prevail to the extent of the inconsistency.
2. All landscape works shall be completed to the standards of the LANDSCAPE CONTRACTORS ASSOCIATION OF AUSTRALIA (LCA).
3. Contractors must verify all dimensions at the site before commencing any work or making any other commitments that must be approved before manufacturing.
4. Do not use gravel filling. If in doubt - ASK.
5. This drawing is to be read in conjunction with the LCA and the LCA's Code of Practice.
6. All existing trees to remain shall be protected as per arbor report & council requirements.
7. All planting shall be in accordance with the AS 4373.
8. Thoroughly eradicate weeds from all garden areas.
9. No variation to the works to be carried out without the written approval of the owner.
10. All materials to be the best of their respective kinds and shall comply with approved sample type indicated.
11. Substitution of plant species or varieties will not be accepted.
12. Use of materials specified or directed, and instructions are to be issued by the consulting engineer.
13. All storm water outlets & surface run off shall be to Hydraulic Engineers design.
14. Provide suitable drainage to garden beds & lawn areas (e.g. swales) in accordance with AS 2965-1984.
15. Refer to survey plans for position of all existing services.
16. Refer to Architectural elevations & Sections for location and proposed ground levels.
17. All landscape works shall comply with all council D.A. & CC conditions and all relevant Australian Standards (e.g. AS 3906-1990, AS 3907-1990, AS 3908-1990, AS 3909-1990, AS 3910-1990, AS 3911-1990, AS 3912-1990, AS 3913-1990, AS 3914-1990, AS 3915-1990, AS 3916-1990, AS 3917-1990, AS 3918-1990, AS 3919-1990, AS 3920-1990, AS 3921-1990, AS 3922-1990, AS 3923-1990, AS 3924-1990, AS 3925-1990, AS 3926-1990, AS 3927-1990, AS 3928-1990, AS 3929-1990, AS 3930-1990, AS 3931-1990, AS 3932-1990, AS 3933-1990, AS 3934-1990, AS 3935-1990, AS 3936-1990, AS 3937-1990, AS 3938-1990, AS 3939-1990, AS 3940-1990, AS 3941-1990, AS 3942-1990, AS 3943-1990, AS 3944-1990, AS 3945-1990, AS 3946-1990, AS 3947-1990, AS 3948-1990, AS 3949-1990, AS 3950-1990, AS 3951-1990, AS 3952-1990, AS 3953-1990, AS 3954-1990, AS 3955-1990, AS 3956-1990, AS 3957-1990, AS 3958-1990, AS 3959-1990, AS 3960-1990, AS 3961-1990, AS 3962-1990, AS 3963-1990, AS 3964-1990, AS 3965-1990, AS 3966-1990, AS 3967-1990, AS 3968-1990, AS 3969-1990, AS 3970-1990, AS 3971-1990, AS 3972-1990, AS 3973-1990, AS 3974-1990, AS 3975-1990, AS 3976-1990, AS 3977-1990, AS 3978-1990, AS 3979-1990, AS 3980-1990, AS 3981-1990, AS 3982-1990, AS 3983-1990, AS 3984-1990, AS 3985-1990, AS 3986-1990, AS 3987-1990, AS 3988-1990, AS 3989-1990, AS 3990-1990, AS 3991-1990, AS 3992-1990, AS 3993-1990, AS 3994-1990, AS 3995-1990, AS 3996-1990, AS 3997-1990, AS 3998-1990, AS 3999-1990, AS 4000-1990, AS 4001-1990, AS 4002-1990, AS 4003-1990, AS 4004-1990, AS 4005-1990, AS 4006-1990, AS 4007-1990, AS 4008-1990, AS 4009-1990, AS 4010-1990, AS 4011-1990, AS 4012-1990, AS 4013-1990, AS 4014-1990, AS 4015-1990, AS 4016-1990, AS 4017-1990, AS 4018-1990, AS 4019-1990, AS 4020-1990, AS 4021-1990, AS 4022-1990, AS 4023-1990, AS 4024-1990, AS 4025-1990, AS 4026-1990, AS 4027-1990, AS 4028-1990, AS 4029-1990, AS 4030-1990, AS 4031-1990, AS 4032-1990, AS 4033-1990, AS 4034-1990, AS 4035-1990, AS 4036-1990, AS 4037-1990, AS 4038-1990, AS 4039-1990, AS 4040-1990, AS 4041-1990, AS 4042-1990, AS 4043-1990, AS 4044-1990, AS 4045-1990, AS 4046-1990, AS 4047-1990, AS 4048-1990, AS 4049-1990, AS 4050-1990, AS 4051-1990, AS 4052-1990, AS 4053-1990, AS 4054-1990, AS 4055-1990, AS 4056-1990, AS 4057-1990, AS 4058-1990, AS 4059-1990, AS 4060-1990, AS 4061-1990, AS 4062-1990, AS 4063-1990, AS 4064-1990, AS 4065-1990, AS 4066-1990, AS 4067-1990, AS 4068-1990, AS 4069-1990, AS 4070-1990, AS 4071-1990, AS 4072-1990, AS 4073-1990, AS 4074-1990, AS 4075-1990, AS 4076-1990, AS 4077-1990, AS 4078-1990, AS 4079-1990, AS 4080-1990, AS 4081-1990, AS 4082-1990, AS 4083-1990, AS 4084-1990, AS 4085-1990, AS 4086-1990, AS 4087-1990, AS 4088-1990, AS 4089-1990, AS 4090-1990, AS 4091-1990, AS 4092-1990, AS 4093-1990, AS 4094-1990, AS 4095-1990, AS 4096-1990, AS 4097-1990, AS 4098-1990, AS 4099-1990, AS 4100-1990, AS 4101-1990, AS 4102-1990, AS 4103-1990, AS 4104-1990, AS 4105-1990, AS 4106-1990, AS 4107-1990, AS 4108-1990, AS 4109-1990, AS 4110-1990, AS 4111-1990, AS 4112-1990, AS 4113-1990, AS 4114-1990, AS 4115-1990, AS 4116-1990, AS 4117-1990, AS 4118-1990, AS 4119-1990, AS 4120-1990, AS 4121-1990, AS 4122-1990, AS 4123-1990, AS 4124-1990, AS 4125-1990, AS 4126-1990, AS 4127-1990, AS 4128-1990, AS 4129-1990, AS 4130-1990, AS 4131-1990, AS 4132-1990, AS 4133-1990, AS 4134-1990, AS 4135-1990, AS 4136-1990, AS 4137-1990, AS 4138-1990, AS 4139-1990, AS 4140-1990, AS 4141-1990, AS 4142-1990, AS 4143-1990, AS 4144-1990, AS 4145-1990, AS 4146-1990, AS 4147-1990, AS 4148-1990, AS 4149-1990, AS 4150-1990, AS 4151-1990, AS 4152-1990, AS 4153-1990, AS 4154-1990, AS 4155-1990, AS 4156-1990, AS 4157-1990, AS 4158-1990, AS 4159-1990, AS 4160-1990, AS 4161-1990, AS 4162-1990, AS 4163-1990, AS 4164-1990, AS 4165-1990, AS 4166-1990, AS 4167-1990, AS 4168-1990, AS 4169-1990, AS 4170-1990, AS 4171-1990, AS 4172-1990, AS 4173-1990, AS 4174-1990, AS 4175-1990, AS 4176-1990, AS 4177-1990, AS 4178-1990, AS 4179-1990, AS 4180-1990, AS 4181-1990, AS 4182-1990, AS 4183-1990, AS 4184-1990, AS 4185-1990, AS 4186-1990, AS 4187-1990, AS 4188-1990, AS 4189-1990, AS 4190-1990, AS 4191-1990, AS 4192-1990, AS 4193-1990, AS 4194-1990, AS 4195-1990, AS 4196-1990, AS 4197-1990, AS 4198-1990, AS 4199-1990, AS 4200-1990, AS 4201-1990, AS 4202-1990, AS 4203-1990, AS 4204-1990, AS 4205-1990, AS 4206-1990, AS 4207-1990, AS 4208-1990, AS 4209-1990, AS 421

MAINTENANCE

- All landscape works are to be maintained for a period of 12 months (or as required by council DA Consent) by landscape contractor after final completion AND shall be maintained at all times in a suitable manner. Replace all plants which have failed with the same species. Mulch is to be maintained at specified depth. All plants and turf shall be watered on a regular basis to maintain moisture levels required for optimum growth. All garden areas are to be maintained free from weeds.



* STREET TREE AS PER DA CONDO. 4/16/16					
PROPOSED PLANT SCHEDULE					
IN ACCORDANCE WITH AS 2300 2015					
CODE	BOTANICAL NAME	COMMON NAME	APPROX MATURED WDG	POT SIZE	QUANTITY
GROUND COVER / BORDER					
4	Liriodendron 'Just Right'	Just Right Liriodend	0.6	90mm	10
5	Leucophaea 'Breeze'	Native Flax	0.4	90mm	3
8	Dischidrea Peter Falls	Native Flax	0.1	150mm	1
9	Pantheolus asperifolius	Poinsettia grass	0.6	150mm	1
LOW SHRUBS					
12	Cissampelos indica Miss Muffet	Miss Muffet pittosporum	1	200mm	3
13	Cassipouia 'Ovalish II'	coastal ivy	0.2	200mm	6
14	Corymba maculata 'Sageer' steel	nailed gum	1.2	200mm	1
15	Myrica paludosa 'Baths of Fire'	Baths of Fire	0.2	200mm	1
16	Murres macrocarpa	Murres	3	200mm	1
TALL SHRUBS					
29	Comptosia indica Mini Red	Flowering gum	2.5	25 L	1
FEATURE SHRUBS					
33	Yucca contrata 'Baphoe Silver'	Blue yucca	2	25 L	1
34	Phormium tenax purpurea	Diandra	12	200mm	2
36	Cordyline 'The Sensation'	Travel Sensation	12	25 L	1
37	Strelitzia reginae	Bird of Paradise	12	200mm	1
38	Thecaeanthus maxima	Tree Anemone	14	200mm	1
40	Albizia seburnii variegata	Variegated Shill Ohnig	15	200mm	1
PAVING					
41	Pimenta racemosa	Irresistible	4	45 L	1
46	Pyrus atrovirens 'Capitol'	Ornamental Pear	9	45 L	1
47	Lagerstramia indica 'Julian Summer'	Summer Myrtle	9	45 L	1
48	Coprosma macrocarpa	'Tuckeroo'	9	45 L	1
49	Magnolia 'Teddy Bear'	Magnolia	4	45 L	1
53	Corymba maculata	spotted gum	20	200 L	1

NOTE

THE TREES SHALL COMPLY WITH NATSPEC SPECIFYING TREES:
A GUIDE TO ASSESSMENT OF TREE QUALITY (2003) OR AUSTRALIAN STANDARD AS 2303
- 2015 TREE STOCK FOR LANDSCAPE USE.

HEIGHT AND SPAN ARE INDICATIVE ONLY.SUBJECT TO ON SITE ENVIRONMENTAL FACTORS.
USE ONLY AS A GUIDE.

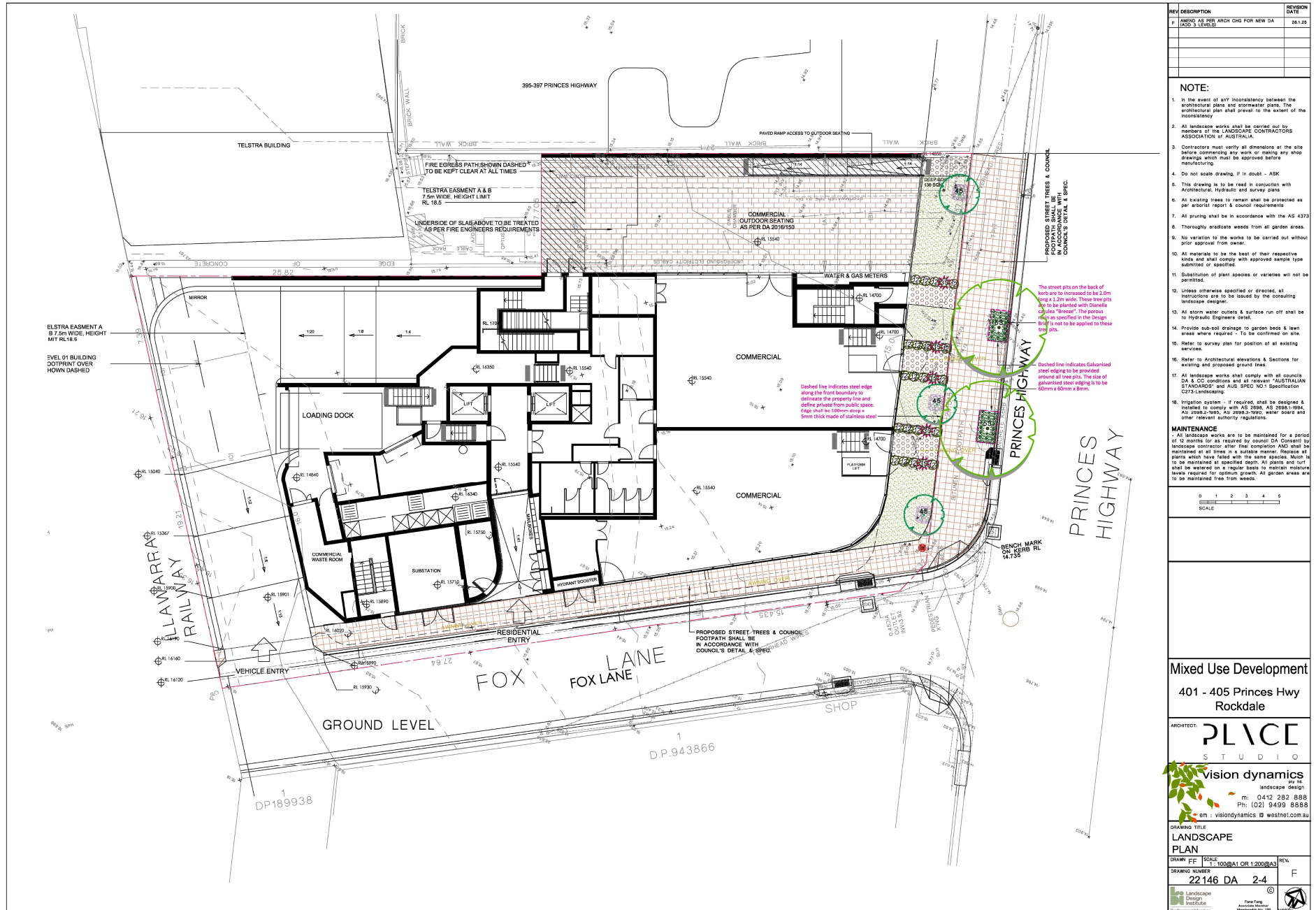
Mixed Use Development

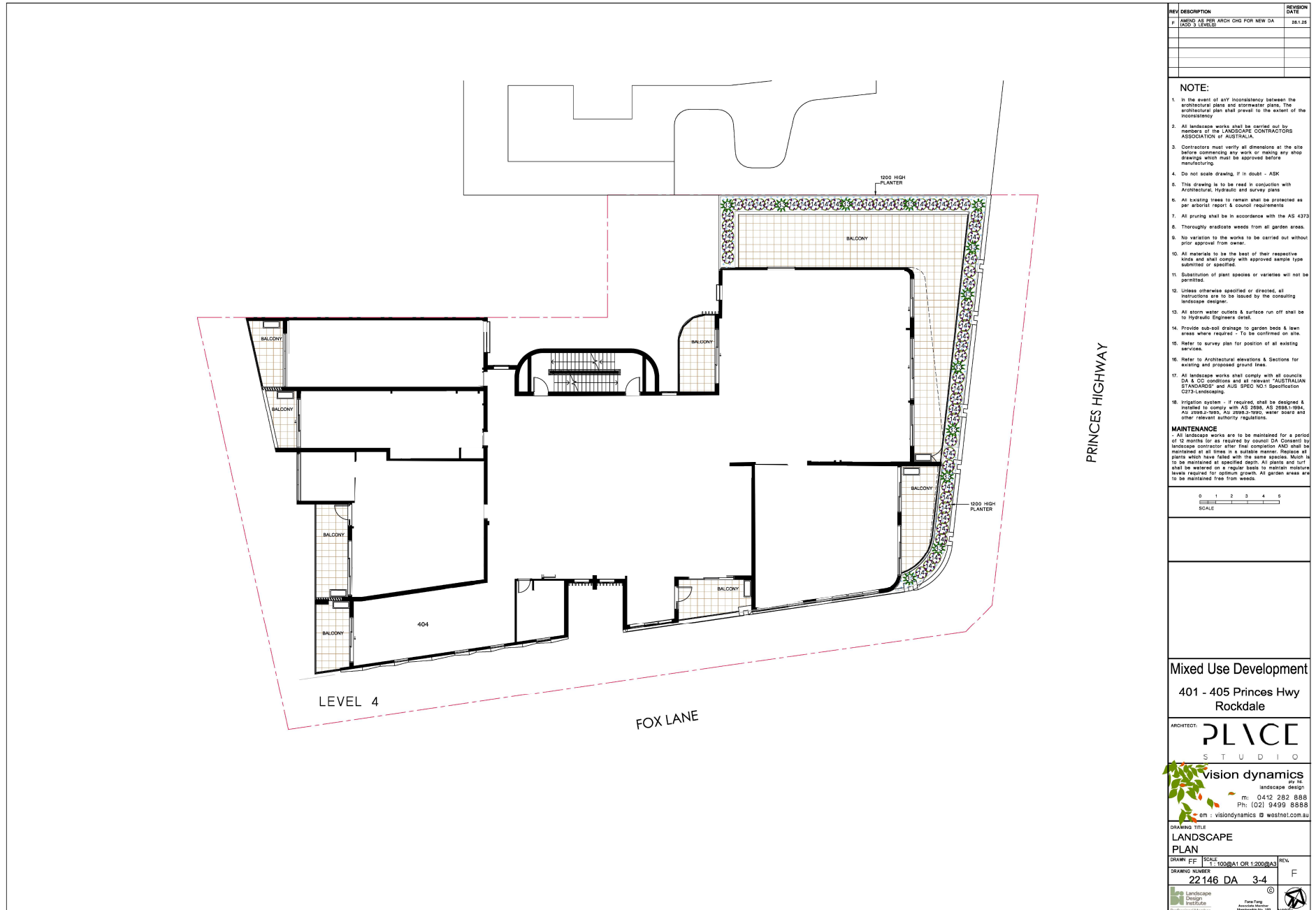
401 - 405 Princes Hwy
Rockdale

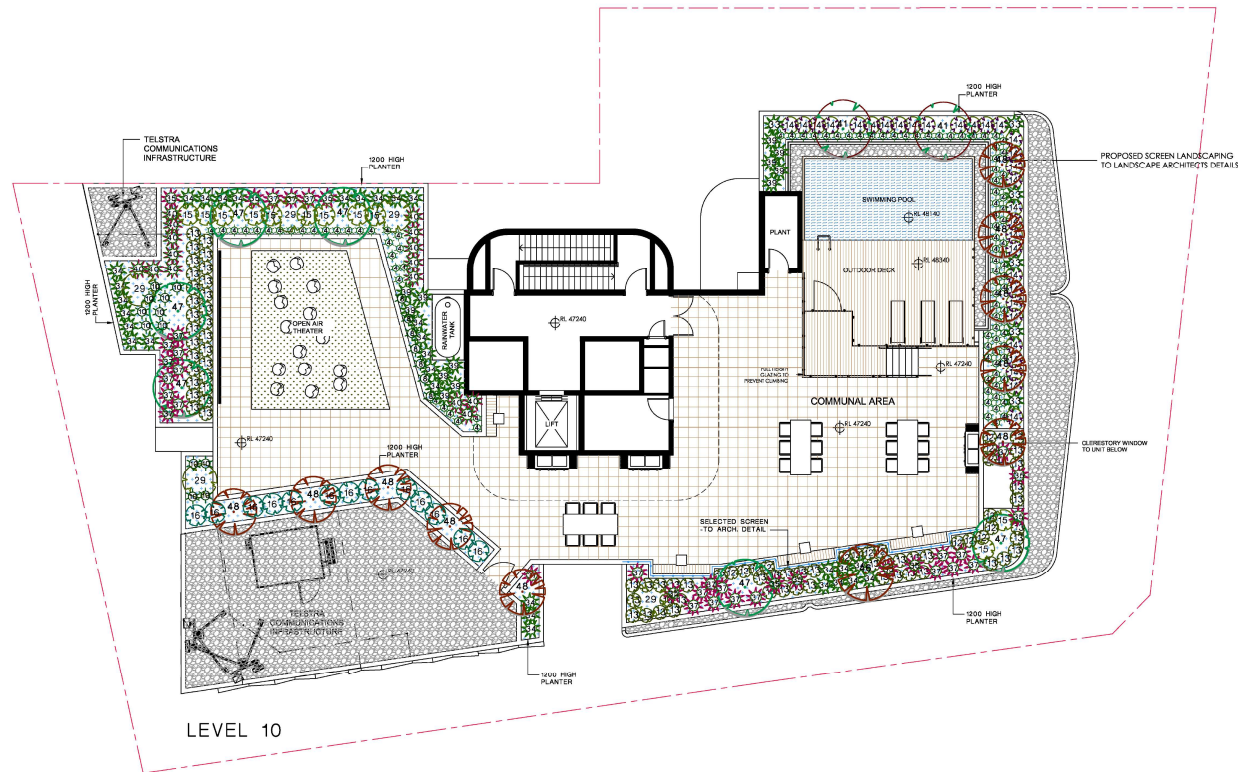
ARCHITECT: **PLACE**
STUDIO
vision dynamics
by st.
landscape design
m: 0412 282 888
Ph: (02) 9499 8888
em: visiondynamics@westnet.com.au

DRAWING TITLE
LANDSCAPE
PLAN

DRAWN	FF	SCALE	1:100@A1 OR 1:200@A3	REV.	
DRAWING NUMBER				F	
22146 DA 1-4					
 Landscape Design Institute Qualifications & Accreditation		Fong Fong Associate Member Institution of Engineers, Singapore			







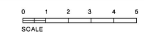
REV	DESCRIPTION	REVISION DATE
F	AMEND AS PER ARCH CHG FOR NEW DA (ADD 3 LEVELS)	28.1.25

NOTE:

1. In the event of any inconsistency between the above and the relevant provisions of the Environmental plan shall prevail to the extent of the inconsistency.
2. All landscape works shall be carried out by members of the LANDSCAPE CONTRACTORS ASSOCIATION OF AUSTRALIA.
3. Contractors must verify all dimensions at the site before commencing any work or making any shop drawings. The plan must not be approved before manufacturing.
4. No scale drawing if, in doubt - ASK
5. The drawing is to be read in conjunction with AS/NZS 4506 Hydraulic and Pneumatic Hose.
6. All existing trees to remain shall be protected as per arbor report & council requirements
7. All pruning shall be in accordance with the AS 4373
8. Thoroughly eradicate weeds from all garden areas.
9. No variation to the works to be carried out without the written consent of the owner.
10. All materials to be the best of their respective quality and comply with approved sample type submitted or supplied.
11. Substitution of plant species or varieties is not permitted without the written consent of the owner.
12. Unless otherwise specified or directed, all instructions are to be issued by the consulting landscape designer.
13. At water run outlets & surface run off shall be to Hydraulic Engineering.
14. Provide solid drainage to garden beds & lawn areas - as directed - To be confirmed on site.
15. Refer to survey plans for position of all existing services.
16. Refer to Architectural elevations & Section for material and proposed ground level.
17. All landscape works shall comply with all councils DA, CC conditions and all relevant AUSTRALIAN STANDARDS, AUSTRALIAN STANDARDS ON SITE CONSTRUCTION 02/23/1996.
18. Irrigation system - If required, shall be designed & installed in accordance with AS 2986, AS 2986-1994, AS 2986-2-1994, AS 2986-3-1994 and all other relevant statutory regulations.

MAINTENANCE

- All landscape works are to be maintained for a period of 12 months (or as required by council DA Consent) by landscape contractor after final completion AND shall be maintained at all times in a suitable manner. Replace all plants which have failed with the same species. Mulch is to be maintained at specified depth. All plants and turf shall be watered on a regular basis to maintain moisture levels required for optimum growth. All garden areas are to be maintained free from weeds.



Mixed Use Development

401 - 405 Princes Hwy
Rockdale

ARCHITECT: **PLACE**
STUDIO



vision dynamics
city rd.
landscape design
m: 0412 282 888
Ph: (02) 9499 8688
em: visiondynamics@westnet.com.au

DRAWING TITLE
LANDSCAPE
PLAN

DRAWN FF		SCALE 1:100@A1 OR 1:200@A3	REV.
DRAWING NUMBER 22146 DA 4-4			F


Landscape Design Institute
 Professional Member
 Fong Fong Associate Member
 Membership No. 193