



Planning Assessment Report

Development Application DA 117-5-2005

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 117-5-2005.

The application seeks consent for Subdivision DA to subdivide one lot into two separate lots.

The Minister for Planning is consent authority under Clause 5 of *Sydney Regional Environmental Plan No.29—Rhodes Peninsula*.

It is recommended that the development application be determined by **granting consent**.

2 BACKGROUND

2.1 Site Context

The site is located at Oulton Avenue, Rhodes in the Canada Bay Council local government area.

The development application was lodged with the Department on 19 May 2005 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

- The shape of the Subject Site is located at the very southern end of the Rhodes Peninsula (tagged “D”). The site is roughly triangular in shape and has frontages to Homebush Bay Drive to the east, the Great Northern Railway to the south and Oulton Avenue to the west. The Liberty grove residential development is located on the western side of Oulton Avenue.

A site visit was conducted on various occasions during the assessment of this development application. The last site visit was in October 2005.

2.2 Relevant approvals

The Minister has granted development consent to the following development application:

- DA 310-11-2001 – Subdivision, road layout, bulk earthworks, shops bulky goods retailing, commercial offices and residential components (granted on 12 September 2002).

A condition of development consent required the construction of on/off ramps from Homebush Bay Drive. A further condition required that detailed design plans of all roadworks be submitted to the RTA for approval. A Works Authorisation Deed between the RTA and Walker Corporation Pty Ltd was settled in December 2003 which required the dedication of the land associated with the on/off ramps. The construction of a new south-bound off-ramp has been completed.

The purpose of the subject application is to create a parcel of land which incorporates the off-ramp so that the appropriate portion can be transferred to the relevant road authority.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for subdivide one lot into two separate lots at Oulten Avenue, Rhodes.

3.1 Amended Plans

- On 31 April 2005 the Applicant, submitted an amended plan of subdivision. The amended plan removes incorrect surveyor references and amends a proposed right-of-way

These amendments differ only in minor respects from the development application submitted and do not give rise to any additional impacts. Accordingly, these amendments were accepted as a replacement application in accordance with clauses 55 and 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations further notification of the application was not undertaken.

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The development is permissible within the Residential and Open Space Zones pursuant to clause 12 of SREP 29.

4.2 Instrument of consent and other relevant planning instruments

Pursuant to clause 5 of SREP 29, the Minister is the consent authority for development on land within Rhodes Peninsula.

The environmental planning instruments, draft environmental planning instruments, development control plans, and regulations applicable to the land to which the development application relate are as follows:

- *State Environmental Planning Policy No.32—Redevelopment of Urban Land* (SEPP 32)
- *State Environmental Planning Policy No.55—Remediation of Land* (SEPP 55)
- *State Environmental Planning Policy No.56—Sydney Harbour Foreshores and Tributaries* (SEPP 56)
- *Sydney Regional Environmental Plan No.22—Parramatta River* (SREP 22)
- *Sydney Regional Environmental Plan No.29—Rhodes Peninsula* (SREP 29)
- *Sydney Harbour and Parramatta River Development Control Plan for SREP No.22 and SREP No.23* (Sydney Harbour and Parramatta River DCP)
- *Renewing Rhodes Development Control Plan* (Rhodes DCP).

4.3 Legislative context

The proposed development is local development pursuant to Section 79 of the Act and SREP 29.

4.4 Other statutory provisions

Sydney Harbour Catchment SREP.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2004 (Sydney Harbour Foreshores and Waterways Area DCP),

Section 79C (1) (a) does not require a consent authority to consider draft Development Control Plans when evaluating development applications. However, a draft Development Control Plan is a matter of public interest and, pursuant to Section 79C (1) (e), the Draft Sydney Harbour Foreshores and Waterways Area DCP formed part of the consideration on the merits of the development application.

5 CONSULTATION

5.1 Public consultation

The application was notified, in accordance with the Regulations including:

Notifications – landowners/occupiers	43 Owners and occupiers including Rhodes Residents Group, Cabarita and Foreshores Residents Authority and Liberty Grove Community Association.
Public Authorities	11 public authorities.
Newspaper advertisements	Advertised in the Inner Western Suburbs Courier and Sydney Morning Herald on 19 July 2005.
Site notices	Yes. (during exhibition)
Exhibition dates	Start: 20 July 2005. End: 19 August 2005.
Exhibition venues	▪ Planning Information Centre, DIPNR Head Office, 20 Lee Street, Sydney ▪ DIPNR Parramatta Office, Level 8, 2-10 Wentworth Street, Parramatta ▪ Canada Bay Council, Drummoyne Citizen Services Centre, 1A Marlborough Street, Drummoyne, and ▪ Canada Bay Council, Concord Citizen Services Centre, Cnr Flavelle and Wellbank Street, Concord

Nine (9) submissions (7 of which were pro-formas) were received regarding the Application. The submissions raised the following issues:

Application should take a holistic approach and consider proposed use of the land;

- Generation of additional traffic on Oulton Avenue;
- Will direct additional traffic onto Wentworth Drive, which is a private road within Liberty Grove;
- Creates dangerous pedestrian and cycle environment;
- Proposal will cause additional noise and pollution;
- Approved plans for Rhodes Waterside show the land as landscaped green space;
- Proposal may result in loss of trees;

- Already overdevelopment on services causing strain on services;
- Inadequate and dangerous access provided to site.

5.2 Referrals

5.2.1 Integrated Approval Bodies

The application was not integrated.

5.2.2 Council

The application was referred to the City of Canada Bay 31 May 2005 in accordance with the Regulations. Council did not make Council on a submission:

5.2.3 RTA

The application was referred to the RTA on 31 May 2005 in accordance with the Regulations. The RTA made a submission (tagged **E**) and raised the following issues:

- Recommended that a condition be applied requiring a revised plan be prepared and submitted to the RTA indicating an intention to dedicate Lot 211 as a public road;
- Inadequate information provided regarding future use of the site;
- All works should be at no cost to the RTA.

These issues are addressed in Section 6.2 and appropriate conditions are proposed.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act

6.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. Significant issues are discussed below in Section 6.2. A detailed assessment is provided in the Compliance Table (tagged "**C**").

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance, the proposed development is considered to be in the public interest.

6.2 Issues

6.2.1 Access

Issue: Inadequate access to site

Raised from: Public submission

Consideration: As the application is for subdivision and as additional gross floor area cannot be constructed on the site the access required would be for service vehicles and maintenance. The proposed vehicular access is considered acceptable for this purpose. Should future development of the site generate additional access requirements, these issues would be addressed as part of the assessment of the

application.

Resolution: It is proposed that a note be included in the consent stating that the consent is for the subdivision of Lot 9 DP 1047108 and does not imply or infer approval for any future use of proposed Lot 212

6.2.2 Holistic approach to development

Issue: Application needs to consider future development

Raised by: Public submissions, RTA

Consideration: The application is for subdivision and no specific use has been identified. Any use would require a separate development application. Clause 14 of SREP 29 restricts GFA in Precinct A Rhodes to 266,500 sq m. As at 16 November 2005 all of the GFA has been granted approval and no potential remains to develop proposed lot 212. Uses would be restricted to open space, advertising signs, any other use in the mixed use zone that does not contribute to GFA as defined under SREP 29.

Resolution: It is proposed that a note be included in the consent stating that the consent is for the subdivision of Lot 9 DP 1047108 and does not imply or infer approval for any future use of proposed Lot 212

6.2.3 Traffic generation

Issue: Traffic generation impacting Oulton Avenue, Wentworth Drive and surrounding area.

Raised by: Public submissions, RTA

Consideration: As the application is for subdivision and as additional gross floor area cannot be constructed on the site the access required would be for service vehicles and maintenance. Consequently as this traffic generation would be minimal there would be no significant impacts on surrounding roads. Should future development of the site generate additional traffic these issues would be addressed as part of the assessment of the application

Resolution: It is proposed that a note be included in the consent stating that the consent is for the subdivision of Lot 9 DP 1047108 and does not imply or infer approval for any future use of proposed Lot 212

6.2.4 Pedestrian and cycle impacts

Issue: The proposal will create dangerous pedestrian and cycle conflicts.

Raised by: Public submissions

Consideration: Important cycle and pedestrian pathways are located on Proposed Lot 212. As the application is for subdivision and as additional gross floor area cannot be constructed on the site the access required would be for service vehicles and maintenance. Consequently impacts on the cycle and pedestrian pathways would not be significant. Should future development of the site generate additional traffic these issues would be addressed as part of the assessment of the application

Resolution: It is proposed that a note be included in the consent stating that the consent is for the subdivision of Lot 9 DP 1047108 and does not imply or infer approval for any future use of proposed Lot 212

7 CONCLUSION

The Minister for Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be determined by **granting** consent.

8 CONSULTATION WITH THE APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 12 December 2005. The applicant responded on 19 and 22 December 2005 (Tagged **F**). The applicant proposed a number of clarifications to conditions and that a draft condition requiring an easement over Lot 212 for public access until such time as a development proposal is submitted be deleted. This was supported and has been deleted.

9 RECOMMENDATION

It is recommended that the Minister for Planning

- (A) pursuant to Sections 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* and clause 5 of *Sydney Regional Environmental Plan No.29—Rhodes Peninsula* **consent** to the development application, subject to conditions, by signing the Instrument of Consent (Tagged "**A**"), and
- (B) authorise the Department to carry out post-determination notification.

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