

## Department of Planning

### PLANNING REPORT

**FILE NO:** S02/00911 Pt 1  
**SUBJECT:** Development Application No. 310-11-2001 - Application for a staged Development Application within Precinct A – Rhodes Peninsula.  
Report on the remainder of the site - SUBDIVISION. – PART A

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#### 1.0 THE PROPOSAL

This section of the planning report deals with the proposal for the subdivision of the site. The applicant seeks consent for staged subdivision, as it is proposed that subdivision be undertaken in several stages. In this respect, consent is sought for:

- Subdivision of the land into 13 “super lots” plus open space and roads;
- The re-subdivision of Super Lot 2 into 3 stratum lots; and
- A boundary adjustment to the second Deposited Plan to correct the boundaries to coincide with the “as built” form of the buildings on Super Lot 2.

The lots forming the Subdivision plan are as follows:

Lot	Buildings
1	5, 6, 7 & 8
2	1, 2 & 3
3	13, 14 & 15
4	16, 17 & 18
5	9, 10, 11 & 12
6	4 & 32
7	24, 25, 26 & 27
8	19, 20 & 21
9	30 & 31
10	28 & 29
11	22 & 23
12	33, 34, 35 & 36
13	Residue Off Site and Off Ramp

The subdivision is intended to take place in several stages to allow for flexibility to incorporate any one or two of the “super lots” and any subsequent deposited plan, thereby avoiding the necessity for further consents for the remainder of the “super lots”

The SEE and Subdivision Report prepared for the applicant states that the plan of subdivision creates all the necessary easements and rights of way. The applicant seeks consent for the creation of 13 superlots under this application, in accordance with Subdivision Drawing 1-DA-03. (Refer attached).

#### 2.0 STATUTORY FRAMEWORK

##### 2.1 SREP 29 – Rhodes Peninsula

SREP 29 is the primary instrument that guides development on the land. The key clause in SREP relating to subdivision is Clause 12, which requires that:

- (a) *land within Rhodes Peninsula may be subdivided, but only with development consent;*

(b) *buildings or works on land within Rhodes Peninsula may be demolished, but only with development consent.*

Under *Schedule 2 – Complying Development*, subdivision which achieves one or more of the following is classified as Complying Development:

- *widening of a public road;*
- *an adjustment of a boundary between lots which does not result in an increased number of lots;*
- *correcting an encroachment on a lot;*
- *consolidating lots.*

Therefore the current proposal can not be classified as Complying Development.

SREP 29 contains a number of guiding principles as well as associated clauses that establish building height, density and zones. The following provides an assessment of the proposed subdivision against the relevant clauses of SREP 29:

a) **Planning Principles [Clause 10]**

The Planning Principles are not strictly relevant to the proposed subdivision. The subdivision is only one component of the DA, and the principles have been considered in other sections of the planning report.

a) **Compliance (with Clauses in SREP 29) of the proposed development on the remainder of the site**

Clause	Comment	Complies
Clause 11 – Land Use Zones	Subdivision is permissible in all zones	Yes
Clause 12 – Subdivision and Demolition	Consent sought for subdivision under this DA. Demolition has previously been consented to by the then Concord Council.	Yes
Clause 14 – Floor space restrictions in Precincts	This clause allows for a floorspace bonus if all land zoned open space is dedicated in favour of the Corporation free of cost as public reserve, and that satisfactory arrangements have been made for the embellishment and ongoing maintenance of that land. McRoss has advised that it is intended to dedicate the land in favour of the Corporation free of cost. The total open space area as derived from the SREP 29 map approximates 34,764m <sup>2</sup> . The proposed subdivision incorporates this amount of open space.	Yes
Clause 18 – Development near zone boundaries	Subdivision is permissible in all zones.	Yes
Clause 19 – Acquisition of land zoned open space	McRoss has advised that they intend to dedicate the land zoned open space in favour of the Corporation free of cost.	Yes

## 2.2 SEPP 56 – Sydney Harbour Foreshores and Tributaries

The subdivision proposed generally complies with the guiding principles of SEPP 56.

## 3.0 WATERWAYS AUTHORITY GENERAL TERMS OF APPROVAL

The Waterways Authority has provided General Terms of Approval for the proposed development, as required for integrated development. These have been incorporated into the proposed conditions of development consent. (Part E)

## **RTA GENERAL TERMS OF APPROVAL**

The Roads and Traffic Authority (RTA) has assumed the role of the Roads Authority for the purposes of Section 138 of the *Roads Act*. The RTA has provided General Terms of Approval for the proposed development, as required for integrated development. These have been incorporated into the proposed conditions of development consent. (Part E)

### **4.0 SECTION 79C CONSIDERATION**

The proposal was assessed under the matters for consideration under section 79C of the Environmental Planning and Assessment Act, 1979. As the proposed subdivision is an integral component of the overall development, it has been assessed as part of the remainder of the site. An assessment of the proposal under Section 79C is therefore provided in the section of the report dealing with the remainder of the site. (Part B)

### **5.0 SYDNEY HARBOUR DESIGN REVIEW PANEL ADVICE**

The proposal for the remainder of the site was referred to the Sydney Harbour Design Review Panel on two occasions; at their meetings on 21 December 2001 and 1 February 2002. No comments specifically regarding the proposed subdivision were made by the Panel.

### **6.0 CONSIDERATION OF PLANNING ISSUES**

#### **6.1 Further Details**

The level of detail provided in the subdivision drawings submitted is inadequate. There are no surveying details of existing elements or details of easements proposed, and no details about the easements or the terms of the easements are provided. A condition is therefore proposed requiring that prior to lodging an application for a final Subdivision Certificate, subdivision plans indicating dimensions, areas, relevant surveying details, exterior boundary dimensions, details of all proposed easements and terms of these easements are to be approved by the Director-General.

#### **6.2 Public access to the foreshore**

The provision of open space to the foreshore is considered to be important and the application provides for such access. A condition is recommended requiring that easements for 24 hour unrestricted public access be provided in respect all areas of the public domain within the open space and roadways and created pursuant to Section 88B of the Conveyancing Act 1919.

#### **6.3 Dedication of open space**

Clause 14 of SREP 26 allows for a floorspace bonus within Precinct A if all land zoned open space is dedicated in favour of the Corporation free of cost as public reserve, and that satisfactory arrangements have been made for the embellishment and ongoing maintenance of that land. McRoss are seeking the maximum amount of floorspace allowed under this clause, however as discussed in other sections of the planning report, the floorplates/envelopes proposed for the remainder of the site are not considered to be appropriate and are not recommended for approval. It is therefore not considered to be wise to approve a guaranteed amount of floorspace the developer can build on the site until such time as satisfactory built form/design is proposed.

If an amount of floorspace is not approved, dedication of the open space remains to be an issue. The applicant has indicated that they intend to dedicate the open space to the Corporation, and it is considered important that there be some requirement placed on the applicant that the land dedication be triggered once they have approval for any portion of that bonus floorspace. A condition is therefore proposed to require that the Director-General approve a public positive covenant enabling all land zoned Open Space (including any land taken to be within that zone by Clause 18(6) of SREP 29, but excluding any land taken not to be within that zone by that subclause) to be dedicated, at no cost, to the Corporation at such time that the approved development within Precinct A exceeds a total gross floor area of 205,000m<sup>2</sup>.

#### **6.4 Shoreline Avenue south of Mary Street**

It is not acceptable that the applicant deals with the portion of Shoreline Avenue north of Mary Street at a later stage (ie, not include this portion as part of Shoreline Avenue). McRoss was advised of this position before the DA was lodged continuously throughout the assessment. Regardless of this, the DA lodged states that this portion of Shoreline Avenue will be constructed at a later stage. A condition of the subdivision is recommended to require that the road reservation for Shoreline Avenue is to be continued north of Mary Street to the northern boundary of Precinct A at the same width as for the rest of Shoreline Avenue.

#### **6.5 Easements for services**

A condition is proposed requiring that documentary easements for services, drainage, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots pursuant to Section 88B of the Conveyancing Act 1919.

#### **6.6 Road layout**

The proposed road layout generally complies with the provisions of the DCP and the subdivision proposed is acceptable subject to full details being approved. The main issue relating to the subdivision for the road layout is the construction of Shoreline Avenue north of Mary Street. A condition is proposed in this regard, as noted above.

#### **7.0 CONCLUSION**

The proposed subdivision has been assessed in accordance with the requirements of SREP 29, SEPP 56 and section 79C of the Act and is considered appropriate subject to the proposed conditions. It is recommended that the Minister approve this part of the development application.

#### **8.0 RECOMMENDATION**

It is RECOMMENDED that the Minister:

- (i) Grant conditional consent to DA 310-11-2001 for the land subdivision of Precinct A at Rhodes Peninsula into 13 "superlots" and the stratum subdivision of Lot 2 into 3 stratum lots in accordance with section 80(1)(a) of the Environmental Planning and Assessment Act, 1979.

**Robert Black**  
Director, Urban Assessments