

**MAJOR PROJECT ASSESSMENT:  
MP 10\_0105  
Residential flat development at  
Lot 201 in DP 1101828,  
Sites 2A and 3A - PRECINCT B  
40 WALKER STREET, RHODES  
Proposed by Billbergia Developments**



Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

Prepared by Canada Bay Council under Instrument of  
Delegation dated 27 August 2010

February 2011

## ABBREVIATIONS

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CIV	Capital Investment Value
Council	Canada Bay Council
Department	Department of Planning
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Billbergia Developments Pty Ltd
RtS	Response to Submissions

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NSW Government  
Department of Planning

## EXECUTIVE SUMMARY

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This is a report on a Project Application to construct a mixed use development on Lot 201 DP 1101828, otherwise known as Site 2A and 3A - Precinct B, 40 Walker Street, Rhodes pursuant to Part 3A of the *Environmental Planning and Assessment Act, 1979* ("the Act").

The site is located in the local government area of Canada Bay.

The Proponent is Billbergia Developments Pty Ltd (the Proponent).

### ***The Proposal (as exhibited) (Appendix A)***

The Project Application originally sought approval for:

- 736 residential dwellings contained within five buildings ranging in height from 6 to 25 storeys;
- Retail tenancies incorporated at ground level totalling 1050m<sup>2</sup>;
- Basement car parking over three levels containing 773 spaces; and
- Provision of certain landscaping works and shared facilities.

The estimated project cost of the development is \$219,145,000.

The proposal was exhibited from 15 December 2010 for 58 days until 11 February 2011 and was published in the Sydney Morning Herald, Daily Telegraph and Inner West Courier. The Environmental Assessment was made available to the public in the Department's Information Centre and at Canada Bay Council. In response to the exhibition, six (6) submissions were received from public authorities with thirty six (36) submissions received from the general public.

Delegation was granted to Canada Bay Council by the Director General to exhibit and assess the Part 3A Project Application by Instrument of Delegation dated 27 August 2010.

Key issues considered in the Council's assessment included:

- Built form and Urban Design
- Provision of Public Open Space
- Traffic and Parking
- Residential Amenity

### ***Preferred Project Report (PPR) (Appendix C)***

On the 24 February 2011, the Proponent submitted a Preferred Project Report (PPR) to address issues raised by Council and submissions. The following key changes are included in the PPR:

- Retail space incorporated to the lower level (southern elevation) of Building D fronting the public plaza with the podium level of this building also reconfigured.
- Retail activity also introduced to the Southern elevation of Building E fronting Gauthorpe Street
- Relocation of Building A, 1m - 1.5m East with the depth of balconies to level 7 increased to reinforce the base of the tower building to the Walker Street frontage
- Introduction of three split level home office units within Building A
- Privacy screening provided to buildings A, B & D to address building separation issues
- Reference to 'proposed community facility building' removed from plans and setback of Level 1 basement parking structure increased from the lower level public open space

This report has assessed the merits of the project and Council is satisfied that the impacts of the proposed development have been addressed via the Proponent's Statement of Commitments and the recommended conditions of consent, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance.

On these grounds, Council is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region. Furthermore all statutory requirements are considered to have been met.

Accordingly Council recommends that the project be approved, subject to conditions.

The determination of the Project Application is delegated to the Planning Assessment Commission as the Proponent has made a reportable political donation.

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## 1. BACKGROUND

The site, comprising lot 201 in DP 1101828, otherwise known as 40 Walker Street, Rhodes, is located within the local government area of Canada Bay, and is currently under ownership of NSW Maritime.

In terms of ownership NSW Maritime granted the proponent 'permission to lodge' on the 22 November 2010, therefore meeting the provisions of clause 8F of the Environmental Planning & Assessment Regulation 2000. It is understood that ownership of the site will remain under NSW Maritime until such time as remediation activities are completed and a Site Audit Statement issued.

**Figure 1, Site Location**



No. 40 Walker Street is situated within Precinct B under Sydney Regional Plan No. 29 – Rhodes Peninsula (SREP 29), and is located within the central component of the peninsula (Refer to Figure 1).

The site is bound by Walker Street to the East (and main northern rail line beyond). Gauthorpe Street traverses the Southern boundary of the site. Precinct D is located beyond and is characterised by light industrial buildings and mixed use developments. The Western boundary of the site adjoins site 3B (development application currently lodged with Council) and Shoreline Avenue. Timbrol Avenue is located to the North as well as existing residential development on site 1B known as 'Village Quays'.

The greater Rhodes Peninsula is bound by the Parramatta River to the North, Walker Street to the East, Homebush Bay Drive to the South and Homebush Bay to the West.

Previous applications for the site:

- On 4 May 2004, the Minister approved DA 437-12-2002 for the remediation of the former Union Carbide (Lednez) site (described as lot 10 DP 1007931) and part of the bed of Homebush Bay (part residual lands comprised in Certificate of Title Vol. 5018, Fol. 1);
- On 28 November 2006, the Executive Director approved DA 18-2-2005 for the subdivision of land at 40 Walker Street, Rhodes (Precinct B) to create development lots, open space lots, community use lots and road lots.

### Figure 2, Project Layout



## 2. PROPOSED DEVELOPMENT

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### 2.1 Project Description

Following the lodgement of the Environmental Assessment (EA) the Proponent submitted a Preferred Project Report (PPR) (**Appendix C**) for approval to carry out a project comprising the following:

- 735 residential dwellings contained within five buildings ranging in height from 6 to 25 storeys;
- Retail tenancies totalling 1050m<sup>2</sup> within the lower levels of Buildings A, D and E;
- Basement car park over three levels containing 773 spaces; and,
- Provision of external communal open space areas adjacent to Buildings B & C.

Future applications relating to the fit out and use of retail space, dedicated open space area and strata subdivision are also required to be submitted to Council for assessment and determination.

Buildings A, B, D, E (Part of C), along with the communal open spaces areas are located upon a podium which extends across the majority of the site. The area beneath the podium contains three basement car parking levels containing 773 parking spaces, with two separate vehicular access points provided, one from Timbrol Avenue and one to Gauthorpe Street. A detailed description of each building is as follows:

- **Building A:** This block is 25 storeys in height and is located to the North East corner of the site. It contains 249 residential units, 3 home offices as well as a retail tenancy and a communal room for the use of residents to the ground floor.
- **Building B:** This block is 6 storeys in height and is located adjacent to the Northern boundary of the site. It contains 65 residential units, all of which above the podium level are cross through and provide a dual aspect. A common space identified as a 'possible common garden' is located upon the podium level to the southern elevation of the building.
- **Building C:** This block is 20 storeys in height and is located to the North West corner of the site. It contains 160 residential units that are either single aspect or corner units with a dual aspect. An area to be used as a common garden is located above the podium to the Northern elevation.
- **Building D:** This block is 25 storeys in height and is located to the South East corner of the site. It contains 208 residential units with retail uses located to the lower level as well as on podium.
- **Building E:** This block is 6 storeys in height above the parking area and is located adjacent to the Southern boundary of the site. It contains 50 residential units that are either single aspect or corner units with a dual aspect. Retail tenancies have also been incorporated to this building, fronting Gauthorpe Street to the lower level and the open space area upon the podium.

In terms of materials and finishes, the buildings consist predominantly of a painted masonry (white colour tone). It is noted however that a number of varied finishes are incorporated such as natural and rendered concrete (different applied textures), stone cladding, timber and metal finishes as well as coloured glazing which will serve as a feature and provide visual interest.

A large central open space area (which will be dedicated to Council as public open space under a separate application) traverses the central component of the site from South East to North West. Specific details are yet to be submitted though it does appear that this area will provide an appropriate area of deep soil and podium planting to enable the provision of vegetation to soften built form and provide desired residential amenity.

### 2.2 Project Amendments

The submitted PPR (**Appendix C**) addressed issues raised by the Department and submissions.

The following key changes are included in the PPR:

- Relocation of Building A, 1 - 1.5m East with the depth of balconies to level 7 Increased to reinforce the base of the tower building to the Walker Street frontage
- Introduction of three split level home office units within Building A
- Privacy screening provided to buildings A, B and D to address building separation issues



- Retail space incorporated to the lower level (southern elevation) of Building D fronting the public plaza with the podium level of this building also reconfigured.
- Modification of car parking entry and introduction of retail uses to Gauthorpe Street
- Reference to 'proposed community facility building' removed from plans
- Setback of Level 1 basement parking structure increased from the lower level public open space

### **3. STATUTORY CONTEXT**

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#### **3.1 Part 3A Declaration**

The proposal is a Major Project under *State Environmental Planning Policy (Major Development) 2005* (as in force at the time of the Ministers decision), being for the purpose of '*residential, commercial or retail projects with a capital investment of more than \$100 million*' under clause 13 of Schedule 1. The opinion was formed by the Director General as delegate of Minister for Planning on 27 August 2010.

On the 27 August 2010 the Director General delegated authority to Canada Bay Council '*the functions conferred on me under Part 3A of the Act*' subject to conditions which have been observed.

#### **3.2 Permissibility**

Under the Sydney Regional Environmental Plan No. 29 - Rhodes Peninsula, the site is zoned '*Residential Use*', permitting residential uses and a limited range of non-residential uses which are compatible with residential amenity and primarily service local residents. The Proposal is consistent with objectives of the zone in the SREP and is therefore permissible subject to the approval of the Planning Assessment Commission (PAC).

#### **3.3 Director General's Environmental Assessment Requirements (DGRS)**

The DGRs issued on 20 October 2010 required the following issues to be addressed:

- Compliance with EPIs applicable to the site and development;
- Built form and urban design impacts;
- Public domain / open space and accessibility;
- Environmental and residential amenity;
- Transport and accessibility (construction and operational);
- Noise and vibration assessment;
- Ecologically sustainable development;
- Drainage and stormwater management;
- Contamination, human health risk assessment and geotechnical issues;
- Utilities;
- Contributions
- Consultation
- Detail on the staging of the development
- Provision of statement of commitments

Council is satisfied that the DGRs have been adequately and satisfactorily addressed by the Proponent's Environmental Assessment and the PPR, as well as the Statement of Commitments.

#### **3.4 Environmental Planning Instruments**

To satisfy the requirements of Section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the Environmental Assessment of the project.

The provisions, including development standards of Local Environmental Plans, and Development Control Plans are not required to be strictly applied in the assessment and determination of Major Projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGR's and Section 75I(2)(e) of the Environmental Planning and Assessment Act, 1979 require the Proponent to address such standards and provisions and the PAC to duly consider them. Consideration of the relevant standards, provisions and policies as outlined within Appendix A of the DGR's have been outlined and are addressed below.



### **Primary controls guiding the assessment of the proposal:**

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Planning Policy No. 29 – Rhodes Peninsula;
- Canada Bay Local Environmental Plan 2008 (draft Amendment No. 1)
- Rhodes West Masterplan 2009;
- draft Rhodes West Development Control Plan;
- Contaminated Land Management Act 1997.

### **Plans and Policies:**

- NSW State Plan 2010;
- Draft Inner West Subregional Strategy;
- Metropolitan Transport Plan 2010;
- Integrating Land Use and Transport Policy package, NSW Dept of Planning 2005.

## **3.5 Primary Controls**

### **3.5.1 State Environmental Planning Policy No. 55 – Remediation of Land;**

Clause 7 of State Environmental Planning Policy No 55 (Remediation of Land) requires the consent authority to consider whether land is contaminated, prior to granting of consent to the carrying out of any development on that land.

On 4 May 2004, the Minister approved DA 437-12-2002 for the remediation of the former Union Carbide (Lednez) site (described as lot 10 DP 1007931) and part of the bed of Homebush Bay (part residual lands comprised in Certificate of Title Vol. 5018, Fol. 1). The site was contaminated with hazardous and carcinogenic chemicals as a result of industrial operations since 1919. The development was classified as State Significant Development with the Minister as consent authority, as it required a licence from the EPA and a permit from Waterways.

A Commission of Inquiry was held as part of the assessment process, with the subsequent report recommending approval of the proposal. The issued consent included conditions that an independent site auditor, accredited under the Contaminated Land Management Act 1997, upon completion of remediation of the site, or each part of the site (for a staged DA), prepare a site audit statement and summary site audit report to state that the remediated site does not pose a significant risk of harm to human health and ecological systems.

Remediation of the subject site is currently being undertaken and hence final remediation levels have not formally been confirmed. However for the purposes of preparing the EA and subsequent drawings, the proponent was able to obtain indicative remediated levels from the contractor 'Theiss Services'.

Council's Environmental Health Department has reviewed the proposal and raised no objections subject to conditions requiring submission of a Validation Report and Site Audit Statement.

The Department of Environment, Climate Change & Water (DECCW) also provided comments in respect of the notification (addressed within section 4.2)

### **3.5.2 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;**

SEPP 65 aims to improve the design quality of residential flat development in NSW through the application of a series of 10 design principles, which guide the consideration of a proposed residential flat building to ensure that it achieves an appropriate level of design quality.

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles in Part 2 of SEPP 65. In this regard a Design Verification Statement has been provided by SJB Architects stating that the proposed development has addressed the design quality principles set out in Part 2 of SEPP 65.

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled 'Residential Flat Design Code', which contains a number of 'Rules of Thumb' (standards).

Compliance of the proposal against the ten (10) design quality principles and Rules of Thumb contained within the 'Residential Flat Design Code' are discussed within **Appendix D**.

### **3.5.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) came into force on 1 July 2004 and has been progressively implemented to various types of residential development. The intent of BASIX is to encourage sustainable residential development by requiring applicants to make commitments to incorporating sustainable design to achieve more water and energy efficient buildings.

BASIX certificates have been submitted for the various components of the proposal. The Certificates indicate that the proposal will satisfactorily meet the BASIX targets.

However in so far as amended plans were submitted in respect of the PPR, which may potentially impact upon commitments required, the need for updated BASIX Certificates has been conditioned.

### **3.5.4 State Environmental Planning Policy (Infrastructure) 2007**

Schedule 3 of the SEPP requires traffic generating developments to be referred to the Roads and Traffic Authority. The Roads and Traffic Authority (RTA), namely the Sydney Regional Development Advisory Committee (SRDAC) provided comment in relation to the proposal as initially submitted.

Detailed discussion in response to the comments raised is provided in **Sections 4 and 5** of this report.

### **3.5.5 Sydney Regional Environmental Planning Policy No. 29 – Rhodes Peninsula;**

The SREP, gazetted on 19 November 1999, replaced all local environmental planning instruments which otherwise applied to the Rhodes Peninsula at the date of gazettal.

It is noted that the proposal is non compliant with the primary provisions of the SREP, however, the Director General's requirements have allowed the proposal to be designed in accordance with the provisions of the intended / future planning controls for the Rhodes Peninsula.

Canada Bay Council is currently awaiting gazettal of the Canada Bay Local Environmental Plan 2008 (Amendment No. 1) which will reflect additional height and floor space envisaged in the Rhodes West Master Plan 2009. The draft LEP will replace the provisions of SREP 29.

### **3.5.6 City Canada Bay Local Environmental Plan 2008 (DRAFT Amendment No. 1)**

On 31 March 2010, Canada Bay Council lodged a Planning Proposal with the Department of Planning to provide an additional 46,200m<sup>2</sup> of floor space, increase in height of up to 25 storeys and provision for an additional 17,230m<sup>2</sup> of open space in the form of local parks and civic plazas in undeveloped parts of the Rhodes Peninsula.

The Planning Proposal states as follows:

*It is proposed to implement the Master Plan by incorporating the relevant provisions of SREP 29 into the Canada Bay Local Environmental Plan 2008. This will require the provisions of the SREP to be translated into Standard Instrument format, whilst also being amended to capture the changes proposed by the Rhodes West Master Plan. It is envisaged that the SREP will be repealed when the amendments to the LEP are gazetted.*

The proposal passed the Gateway process with conditions and Canada Bay Council prepared a draft Local Environmental Plan (*Amendment No. 1*).

The draft LEP was placed on public exhibition from the 5 July 2010 to 3 August 2010.

On the 19 October 2010, following exhibition, the Plan was reported back to Council following where it was resolved that it be adopted and forwarded to the Minister for Planning.

Council is currently awaiting gazettal of the draft LEP amendment.

The draft LEP replaces provisions of SREP 29. Generally, the only provisions that will be changed are those relating to the maximum permitted floor space and height. In this regard it is noted that the proposed development complies with the additional allocated floor space and height provisions.

### **3.5.7 Rhodes West Master Plan 2009**

The Rhodes West Master Plan 2009 was adopted by Council on 8 December 2009. The Master Plan sets out the vision for the development of selected sites in the Rhodes Peninsula and also sets out urban design and planning principles for the distribution of additional floor space and height.

The Master Plan allows for an additional 33% (21,688m<sup>2</sup>) of gross floor area within Precinct B and allows buildings of up to 25 storeys in height fronting Walker Street.

Following adoption of the Master Plan by Council, the '*Draft Rhodes West Development Control Plan*' was prepared (as outlined below), and was intended to carry forward the provisions of the Master Plan and generate specific design parameters for the built form.

### **3.5.8 Draft Rhodes West Development Control Plan**

As outlined above, the draft Rhodes West DCP follows on from the introduction of the Rhodes West Master Plan which sought to upscale and guide future development within Rhodes. The draft Rhodes West DCP will supersede the current Renewing Rhodes DCP which was prepared in 2002 and has guided the majority of development within the Peninsula to date.

The draft DCP was placed on public exhibition with the draft LEP from 5 July 2010 to 3 August 2010.

On the 19 October 2010 the DCP was reported back to Council following public exhibition. A number of changes / edits to the document were recommended and Council subsequently resolved that the document be adopted. The DCP will commence upon gazettal of the LEP.

An assessment against the provisions of the draft DCP is contained within **Appendix D**.

### **3.5.9 Contaminated Land Management Act 1997**

The objects of the Contaminated Land Management Act 1997 are as follows:

- (1) *The general object of this Act is to establish a process for investigating and (where appropriate) remediating land that the EPA considers to be contaminated significantly enough to require regulation under Division 2 of Part 3.*
- (2) *Particular objects of this Act are:*
  - (a) *to set out accountabilities for managing contamination if the EPA considers the contamination is significant enough to require regulation under Division 2 of Part 3, and*
  - (b) *to set out the role of the EPA in the assessment of contamination and the supervision of the investigation and management of contaminated sites, and*
  - (c) *to provide for the accreditation of site auditors of contaminated land to ensure appropriate standards of auditing in the management of contaminated land, and*

- (d) *to ensure that contaminated land is managed with regard to the principles of ecologically sustainable development.*

As outlined above in response to the requirements of SEPP 55, remediation of the subject site is currently being undertaken and hence final remediation levels have not formally been confirmed. However for the purposes of preparing the EA and subsequent drawings, the proponent was able to obtain indicative remediated levels from the contractor 'Theiss Services'.

Council's Environmental Health Department has reviewed the proposal and raised no objections subject to conditions requiring submission of a Site Audit Statement and Validation Report

### 3.6 Plans and Policies

#### 3.6.1 NSW State Plan 2010

The NSW State Plan 2010 aims to achieve improved urban environments and ensure sustainable development through reductions in greenhouse gas emissions and development in close proximity to existing centres, services and transport.

The State Plan is the community's vision for the future of NSW in which:

- *Our transport network is world class - safe, reliable and integrated. Our cities and towns are great places to live, and we experience a high quality of life*
- *Our economy grows stronger - supporting jobs and attracting business investment*
- *Our children are better educated, our people more skilled and we are known for our research and innovation*
- *Our health system provides the highest quality care accessible to all*
- *Our energy is clean, our natural environment is protected and we are leaders in tackling climate change*
- *Our community is strong and the most disadvantaged communities and our most vulnerable citizens are supported*
- *Our police and justice system keep the community safe.*

The plan sets targets, priorities and actions for the delivery of services in NSW.

The following table provides an assessment of the proposed development against the relevant targets contained within the Plan:

<b>Target</b>	<b>Comment</b>
<b>Better Transport and Liveable Cities</b>	
Increase walking and cycling	The site is located within close proximity to the Rhodes railway station with nearby reserves, noting particularly Bicentennial Park readily accessible and providing opportunities for walking and cycling. The open space area dissecting the site which will be dedicated to Council will also be accessible and encourage walking.
Increase number of jobs closer to home	The proposal will create a number of jobs during construction and in ongoing maintenance. The incorporation of retail tenancies within the development and proximity of the site to established business centres within Rhodes is also considered beneficial.
Grow cities and centres as functional and	The proposal has been designed in accordance with



attractive places to live, work and visit	the provisions of the draft Canada Bay LEP and draft Rhodes West DCP which establishes Council's vision for the Precinct and seeks to make the Rhodes Peninsula a more attractive place to live, work and visit.
Improve housing affordability	In terms of affordability the State Plan seeks to increase available housing stock. In this regard the proposal is considered beneficial as an additional 735 residential units of a varied mix will be provided.
<b>Supporting Business and Jobs</b>	
Maintain and invest in infrastructure	The proposal is subject to a Voluntary Planning Agreement (VPA) with Council with Section 94 contributions also applicable, which will go towards a new community centre within the Rhodes Peninsula and other infrastructure within Rhodes.
Increase business investment and support jobs	As outlined above the proposal will create a number of business / employment opportunities during both construction and its ongoing maintenance.
<b>Green State</b>	
Improve air quality	Compliance with the 1 car space per unit provision and close proximity of the site to public transport may discourage car dependency. The incorporation of a car share scheme and development of a travel plan to be distributed to future resident / owners is also of benefit.
Reduce waste	A Waste Management Plan was submitted with the proposal with the development providing appropriate waste storage areas, which facilitate recycling.
<b>Stronger Communities</b>	
Increase the number of people using parks	The proposal will provide a public open space area and is located within close proximity to Foreshore Reserve and Point Park and hence should encourage the utilisation of these areas by residents.

### 3.6.2 Draft Inner West Subregional Strategy

The Subregional Strategy translates objectives of the NSW Government's Metropolitan Strategy and State Plan to the local level.

The Inner West Subregion is situated between Sydney CBD and Parramatta, a Regional City. It takes in the Local Government Areas of Ashfield, Burwood, Canada Bay, Leichhardt and Strathfield.

With regard to Canada Bay, the Draft Inner West Subregional Strategy states as follows:

*Canada Bay is located only 10 km from Sydney CBD, covering an area of approximately 20 km<sup>2</sup>, with over 38 km of foreshore and 130 parks, open spaces and reserve links. In 2004, the population of Canada Bay was approximately 65,800. The area is well known for its cultural diversity, with approximately 30 per cent of the population speaking other than English as a first language. Rhodes has been a major focus for residential and employment development activity in recent years.*

The following table provides a brief assessment of the proposed development against the primary objectives of the strategy which relates to housing:

Objective	Comment
<b>C1</b> <i>Ensure Adequate Supply of Land and Sites for Residential Development</i>	The site is located within the Rhodes Peninsula which will provide much of the housing accommodation and population increase for the City of Canada Bay Council
<b>C2</b> <i>Plan for a Housing Mix near Jobs, Transport and Services</i>	Location of the site within the central component of the Rhodes Peninsula makes it readily accessible to public transport, the Rhodes Business Park and the Rhodes Shopping Centre.
<b>C3</b> <i>Renew Local Centres</i>	The site is within a precinct that is only partially established with development still to be completed.
<b>C4</b> <i>Improve Housing Affordability</i>	The proposal provides 735 residential dwellings, varying from studio to 3 bedrooms.
<b>C5</b> <i>Improve the Quality of New Development and Urban Renewal</i>	The proposal has been designed in response to the various policies applicable.

The Subregional Plan, for the Inner West, also seeks an additional 30,000 new dwellings over the next 20 years. The provision of 735 new apartments will positively contribute towards this target.

### 3.6.3 Metropolitan Transport Plan 2010

The Metropolitan Transport Plan 2010 is the NSW State Government's policy document for the delivery of public transport services across the Sydney Metropolitan area. The document:

- examines the likely future composition of the Metropolitan area (including dwelling yields);
- analyses the existing infrastructure and services; and
- makes commitments for future services and infrastructure to meet the expected new demands

The subject site is not located within an area identified within the Plan as having substantial additional growth in the coming years, most likely because the Rhodes Peninsula is nearing completion.

It is noted that the subject site is serviced by existing rail and bus services along Concord Road. Council is intending to enter into negotiations with Sydney Buses to improve services.

### 3.6.4 Integrating Land Use and Transport Policy package, NSW Dept of Planning 2005

The Integrating Land Use and Transport Policy package (ILUT) was introduced in 2005 and provides a framework for State Government agencies, Councils and developers to integrate land use and transport planning at the regional and local levels.

The aim of the Policy was to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- improving access to housing, jobs and services by walking, cycling and public transport
- increasing the choice of available transport and reducing dependence on cars
- reducing travel demand including the number of trips generated by development and the distances travelled, especially by car
- supporting the efficient and viable operation of public transport services
- providing for the efficient movement of freight.

In response to the above, the location of the site within close proximity to places of employment, services and public transport is considered desirable. Compliance with the 1 car space per unit

provision, incorporation via condition of a car share scheme and development of a travel plan to be distributed to future resident / owners is also of benefit in this regard.

### 3.7 Objects of the Environmental Planning & Assessment Act 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The PAC's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, and be consistent with the backdrops of the objects of the Act.

The objects of the Act in Section 5 are as follows:

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) *the protection, provision and co-ordination of communication and utility services,*
  - (iv) *the provision of land for public purposes,*
  - (v) *the provision and co-ordination of community services and facilities, and*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*
  - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Of particular relevance to the assessment of the subject application is consideration of the Objects under Section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iv), (vi), and (vii), are significant factors informing the determination of the subject application.

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms (discussed below).

Council has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application, and on balance the application is considered acceptable.

### 3.8 Ecologically Sustainable Development Principles

There are five accepted ESD principles:

- (a) *decision - making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the intergenerational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*

- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

Council has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** - The social and economic benefits of the proposal are demonstrated in the documentation submitted for the assessment. The environmental impacts are and will be addressed through the proponent's EA report, PPR and SoC, and recommended conditions of consent. Council's assessment has duly considered issues raised by the community and public authorities. The proposal will not compromise benefits or opportunities to others. The proposal's promotion of public transport use due to minimal on site parking is important and supported.
- **Precautionary Principle** - The EA and PPR is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts are identified, with appropriate conditions also incorporated within the recommendation of this report.
- **Inter-Generational Principle** - It is considered that the proposed development represents a sustainable use of a site which provides residential dwellings to accommodate population growth within Sydney. The residential dwellings will also indirectly reduce the rate of development demand at the urban fringe and enable the orderly and timely redevelopment of land no longer required for its original purpose. It is considered that the redevelopment of this site will have positive social, economic and environmental impacts and as a result will maintain the environment for the benefit of future generations.
- **Biodiversity Principle** - There is no natural vegetation on the site due to remediation activities and the site therefore does not contain any threatened or vulnerable species, populations, communities or significant habitats. Landscape works associated with the open space area will be subject to a separate application of which will consider such things as incorporation of appropriate native species, consistent with the biodiversity principle.
- **Valuation Principle** - The proposal seeks to promote new residential development in existing urban areas by maximising reliance on existing infrastructure, and enabling residents to live near work, leisure and other opportunities. The proposal provides a mix of accommodation which will provide varied values. Infrastructure will be paid for and built by the developer.

It is also noted that BASIX Certificates, satisfying the minimum requirements for water and energy conservation and thermal comfort were achieved in respect of the proposed application.

### 3.9 Section 75I(2) of the Act and Clause 8b Of the Regulation

Section 75I(2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Environmental Assessment report is to include a number of requirements. These matters and Council's response are set out as follows:

Section 75I(2) Criteria	Response
Copy of the proponent's environmental assessment and any preferred project report; and	The Proponent's EA and PPR are located on the assessment file, with the Statement of Commitments.
Any advice provided by public authorities on the project; and	All advice provided by public authorities on the project is set out at <b>Section 4</b> of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project; and	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out	Each relevant SEPP that substantially governs the carrying out of the project is identified.



of the project; and	
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division, and	An assessment of the development relative to the prevailing environmental planning instrument is provided in <b>Sections 3 &amp; Appendix D</b> of this report
Any environmental assessment undertaken or other matter the Director General considers appropriate; and	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the project application is this report in its entirety.
<b>Clause 8B Criteria</b>	<b>Response</b>
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in <b>Section 5</b> of this report.
Any aspect of the public interest that the Director - General considers relevant to the project	Public interest is discussed in <b>Section 4</b> and <b>5</b> of this report.
The suitability of the site for the project	The site is identified in the SREP 29 – Rhodes Peninsula to be redeveloped for medium density residential uses and subject to the assessment contained within this report is considered suitable for the proposed development, subject to conditions.
Copies of submissions received in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions has been provided within this report.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1 Public Exhibition Details

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days.

After accepting the EA, the Department undertook the following actions:

- Made the EA publicly available from the **15 December 2010 until 11 February 2011** (58 days)
  - On the Department of Planning's website;
  - At the Department of Planning's Information Centre; and
  - At Canada Bay Council's Administration offices and at Concord and Five Dock Libraries
- Notified local landowners and residents about the proposal (and the exhibition period);
- Notified relevant State and Local Government Authorities
- Placed advertisements in the following newspapers (Wednesday 15 December 2010):
  - Sydney Morning Herald
  - Daily Telegraph
  - Inner West Suburbs Courier

A total of **42 submissions** were received in response to the exhibition (**Appendix B**), comprising **36 public** submissions and **6 public authority** submissions (RTA; Sydney Water; NSW Health; NSW Department of Environment, Climate Change and Water; Transport NSW and NSW Maritime).

Council also referred the application to an Urban Design Consultant (GMU) for review with resultant comments and recommendations received considered within the assessment of the application.

On 24 February 2011, the Proponent submitted a PPR that incorporated a response to the submissions received during the exhibition period and issues raised by Council. The PPR was not re-exhibited. The PPR was placed on the Department of Planning website and made available to the public as required by the statutory provisions of the Act.

### 4.2 Submissions from Public Authorities

The following submissions were received from public authorities:

#### 4.2.1 RTA (Sydney Regional Development Advisory Committee)

The RTA provided the following comments:

- Traffic modelling result of the intersections is unacceptable. In the report, it shows that all the existing intersections operate above LOS C, which doesn't match with reality where some intersections are now operating at capacity during peak hours. The report doesn't include some critical intersections such as Homebush Bay Drive / Concord Road intersection.

In this regard traffic modelling for intersections shall be revised via using the traffic survey data in 2011 as the model input data:

- Concord Road / Averill Street
- Concord Road / Mary Street
- Homebush Bay Drive / Oultan Avenue
- Homebush Bay Drive / Concord Road

Required countermeasures to improve performance of intersections shall be identified.

The modelling referred to and contained within the submitted Traffic Transport Report prepared by Thompson Stanbury was sourced from a Traffic Report from Masson Wilson Twiney (MWT) prepared for the Rhodes West Master Plan 2009. The scope of the assessment included the redevelopment of

the remaining site within the Rhodes Peninsula and subject of the Planning Proposal. It is noted that Council had the MWT report reviewed by Transport Planning & Associates, and as a result, Council formed the view that the modelling contained within the MWT report was adequate.

Given that the development is compliant in terms of density, traffic generation is not considered to increase beyond that previously considered by the above report for Rhodes West Master Plan.

Furthermore in a letter dated 11 October 2010 in response to the public exhibition of the Planning Proposal, the RTA advised that no objection was raised to gazettal of the Canada Bay LEP amendment and draft Rhodes West DCP, subject to improvements being made to the Oulton Ave / Homebush Bay Drive intersection. Council has agreed to partly fund any required upgrades and at this stage is awaiting advice from the RTA as to what specific works are required.

- Maximum car parking spaces provided for each unit shall be restricted to average one car parking space per residential unit.

Parking provision within the development is provided at an average of 1 space per residential unit.

The RTA also provided the following comments to Council for consideration in its assessment

- It is strongly recommended that the developer provide any sustainable initiatives and measures such as Travel Access Guide (TAG) which will reduce car dependency and increase use of travel modes such as buses, bicycles and walking

The applicant has committed to development of a 'Green Travel Plan' which amongst other things will outline the minimal street parking availability and provide details of ferry, rail and bus timetables.

- Transport NSW and the State Transit Authority (STA) should be consulted to determine if additional bus services can be provided or re-routed to this development.

It is noted that the subject site is serviced by existing rail and bus services along Concord Road. Council is intending to enter into negotiations with Sydney Buses to improve services.

- As stated in previous meetings with regard to the Master Plan for Rhodes West, Council will investigate solutions to improve the intersection of Oulton Avenue and Homebush Bay Drive.

As outlined above, in terms of traffic management concerning the Rhodes Peninsula, Council considers the upgrading of the Oulton Avenue and Homebush Bay Drive intersection a priority.

The RTA also raised a number of other issues such as compliance with Australian Standards, all of which have been conditioned within the recommendation.

#### **4.2.2 Transport NSW**

Transport NSW noted the advice received from Sydney Regional Development Advisory Committee (SRDAC) and in particular the recommendation that TNSW and the State Transit Authority be consulted to determine if additional bus services can be provided to the proposed development to achieve a reasonable mode shift to public transport. TNSW would welcome the opportunity to meet with relevant parties to discuss potential opportunities to improve bus servicing on the Peninsula.

TNSW requested that the following measures be included in final conditions of consent:

- Identification of location and quantum of car share spaces as well as the location of bicycle parking; and

A condition requiring the applicant to designate and provide three (3) car spaces on the public road carriageway adjacent to the kerb line on one of the street frontages to the development site for the purposes of establishing a car share scheme is provided. These car spaces shall be suitably line marked and signposted as car share scheme spaces only. The details of the line marking and the signposting shall be submitted to Council for approval prior to the issue of an Occupation Certificate.

In terms of bicycle parking, a condition is incorporated requiring facilities to be provided in accordance with the draft Rhodes West DCP, with details to be provided as such.

- Provision of a specific travel plan relating to the proposed building that includes a Travel Access Guide for residents and visitors to the site as well as other measures identified in the Green Travel Plan such as the establishment of car share and car pooling schemes.

The proponent has committed to the development of a 'Green Travel Plan'. A condition has been recommended requiring provision of the Plan to each future resident / owner of the development outlining the following prior to occupation or purchase:

- The limited street parking available in the area detailing reasons why;
- Rail, bus and ferry timetables;
- Details of the car share schemes available in the area;
- Details of the available community facilities in the area; and
- Regional cycleway plan and associated facilities, including details of local cycling groups

#### **4.2.3 NSW Health**

NSW Health advised that the overall design of the proposed development at 40 Walker Street is consistent with the principles outlined in the Rhodes West Master Plan 2009, and includes several features that would create a healthy environment.

The following comments for consideration were also provided:

- Commend the proposal to include a large public open space (11,530m<sup>2</sup>) for diverse recreational purposes. We would like to be involved in the design and embellishment of the public open space (Part 4 Application) so that it encourages usage by a wide range of potential user groups and that it creates opportunities for recreational activities and for social interaction.

As outlined works relating to the open space area will be subject to a separate application. The application upon lodgement will be forwarded to relevant external Government Departments.

- There is a lack of assessment of the impact of the impact that additional demands will have on existing and proposed social infrastructure in the local and immediate areas. Proposal could be strengthened by providing an assessment of the impact that future population will have on key social infrastructure, including health services, aged care services, welfare services, childcare services, and educational facilities. Consideration should be given to the demographic profile of the prospective residents and the current and likely future needs of the community.

Council's development and assessment of the Planning Proposal for Rhodes West, inclusive of relevant policies and voluntary planning agreements included consideration of social infrastructure. Notwithstanding there may be further scope for the development of key infrastructure subject to discussion with relevant authorities.

- Request that a green travel plan be prepared to encourage more sustainable travel modes. It is also noted that the number of bicycle spaces proposed is considerably lower than that required by the Rhodes West DCP. Suggests that the number of bicycle parking spaces be increased or areas reserved for future parking spaces, should demand increase. In addition bicycle parking facilities should ideally be located with good surveillance to deter theft.

The proponent has committed to the development of a 'Green Travel Plan'. As outlined above a condition has been recommended requiring provision of the Plan to each future resident / owner of the development outlining the following prior to occupation or purchase.

In terms of bicycle parking, a condition has been incorporated requiring compliance with the provisions of the draft Rhodes West DCP. Furthermore these facilities are likely to be located both within the basement and open space area, which is considered desirable.



- The proposed plan meets the requirement for 15% adaptable housing. With the ageing population in Sydney, all new developments need to anticipate and respond to the changing needs of residents as they age and / or the mobility is reduced.

The proposed development does provide compliance with adaptable housing provisions of the Rhodes West DCP, such responding to the changing needs of residents.

#### 4.2.4 Sydney Water

Sydney Water provided the following comments:

- Existing drinking water network has sufficient capacity to service the proposed development. The developer will need to connect to the 300mm main available on the western side of Shoreline Drive or the 250mm main available on the western side of Walker Street. Connection will need to be sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002)
- Sydney Water and Brown Consulting P/L have carried out a full system study to define the amplifications needed to service the proposed development. Brown Consulting P/L has designed the sewer to serve the proposed development. The extensions have been sized and configured according to Water Supply Code of Australia (Sydney Water Edition WSA 03-2002)
- Existing recycled water network has capacity to service the proposed development. The developer will need to connect to the 250mm main available on the eastern side of Shoreline Drive or the 150mm main available on the eastern side of Marquet Street.
- Further assessment of the impact of the development will be undertaken when the proponent applies for a Section 73 Certificate.

The above comments have been forwarded to and reviewed by the proponent. No objections were raised however the following was outlined:

*...the existing recycled water supply network is currently not completed for connection to the subject development. The recycled system which is currently available to Sydney Olympic Park and Newington is not recognised by BASIX in the suburb of Rhodes and as such is not accommodated within the proposed development. Alternative water supply system is provided for the development in stormwater retention and a reuse tank is proposed to the south east corner of basement level 2 for irrigating common landscaped areas and for recharging fire sprinkler test water.*

The above is noted though considered an issue for resolution between the proponent and Sydney Water. Accordingly a condition requiring application for a Section 73 Certificate is recommended.

#### 4.2.5 NSW Department of Environment, Climate Change and Water (DECCW)

The Contaminated Sites Section of the DECCW considered the application as it relates to remediation and regulation matters under the *Contaminated Land Management (CLM) Act 1997* and the *Protection of the Environment Operations (PEO) Act*.

The following comments were provided:

- Since a Site Audit Report for the site has not been completed as remediation is still underway, we note that final remediation levels are unavailable for inclusion in the proposal. Should the development disturb final remediation levels as designed, the developers would need to gain an additional Site Audit Report from a contaminated land Site Auditor accredited by DECCW. Additionally, the Site Management Plan included as Appendix T is a generic plan without mentioned Appendices.

A Site Audit Report has not been issued in respect of the subject sites, though the proponent has confirmed through consultation with the remediation contractor (Theiss Environmental Services) the remediated levels foreseen for the site, and these have been utilised within the submitted

Environmental Assessment. In this regard the level of Bulk Earthworks is RL 9.1 (Site 2A) and RL 8.05 (Site 3A) with Remediated Earthworks being RL 8.6 (Site 2A) and RL 7.55 (Site 3A).

The proponent has advised that the Final Site Management Plan is to be submitted to the Consent Authority prior to the occupation of the first residential unit on the site.

- The provided Geotechnical and Groundwater advice provided by Douglas Partners states that the shale is 'suitable for supporting the proposed buildings using appropriately designed piles', though advice does not describe the type of piles anticipated. DECCW would like to insist that driven piles (piles which result in little or no material extracted during their placement) be required across this and any other proposal for the Union Carbide site.

The proponent through the submitted PPR has committed to driven piles.

- Prior to approval, if material reconfiguration or materials extracted from beneath the maintenance layer is anticipated by the proponent, a detailed waste management plan would be required to determine if any excavated material could safely and legally be disposed of in NSW

The proponent has advised that the submitted site management plan does also outline protocol for treatment of remediated fill in the event that it is excavated. Furthermore should the remediated levels and the level for maintenance layer of clean fill alter during finalisation of remediation works, the Site Management Plan will be amended with the new levels included.

Council's Environmental Health Department has reviewed the proposal and raised no objections subject to conditions requiring submission of a Validation Report and Site Audit Statement.

#### 4.2.6 NSW Maritime

NSW Maritime did respond to notification though raised no objections to the application.

#### 4.3 Public Submissions

**Thirty Five (35) submissions** were received from the public (24 raising objection and 11 of support)

The key issues raised in public submissions are listed below -

- |  |                               |
|--|-------------------------------|
| • Height, Bulk, Scale and Visual Impact    | • View to Millennium Marker   |
| • Traffic Generation, Access and Parking   | • Treatment of Western Facade |
| • Provision of Infrastructure              | • Open Space                  |
| • Overshadowing                            | • Acoustic Impact             |
| • Public Transport                         | • Visual Privacy              |
| • Car Park Entry and Exhaust (Timbrol Ave) | • Signage                     |
| • Provision of Open Space                  | • Ongoing Construction Issues |
| • Waste Management & Pollution             | • Staging of the Development  |
| • Overdevelopment                          | • Consultation & Planning     |
| • Wind Impact                              |                               |

A summary of all public submissions has been outlined below and a copy contained in **Appendix B**:

- Height, Bulk, Scale & Visual Impact

This issue, raised within objections related more so to the 3 tower buildings incorporated upon the site and fact that they are inconsistent 'much taller' than any existing development within the Rhodes Peninsula and will disrupt the skyline. Concern was also raised in relation to the design of the building in terms of it looking 'box-like, stodgy and unattractive'.

## Response

The tower buildings (A, C & D) incorporated on site do provide compliance with the height limits adopted under the draft Rhodes West LEP and DCP which stipulate an overall height limit of 82m with a limit of 25 storeys applicable to buildings A & D and 20 storeys to Building C also stipulated.

The proponent has sought variation to the 5 storey height standard of the DCP to buildings B & E, proposing 6 and 7 storeys respectively. In this regard and as discussed within section 5 of this report, additional justification was provided by the proponent within the submitted PPR with the variation considered acceptable, and not detrimental in terms of height, bulk or scale.

In terms of urban design, the buildings are considered to provide an acceptable massing, are well articulated and provide general compliance with the applicable planning controls. Furthermore GMU, the urban designer engaged by Council to review the application did identify that the material sample board included in the submission *'presents a high standard of material finishes and a well composed colour palette, which is seen as a very good design outcome'*.

- Traffic Generation, Parking and Access

This issue relates to traffic congestion within the Rhodes Peninsula during peak periods and minimal availability of on street parking, resulting both from residents and rail commuters. It was also highlighted that no adequate or specific enough improvement to roads is provided, despite the population increase, with the parking provided for residents and visitors within the proposed development also questioned.

## Response

Traffic Planning was undertaken for the Rhodes West Master Plan. In this regard a report prepared by Masson Wilson Twiney Traffic was prepared, of which the scope of the assessment included the redevelopment of the remaining sites within the Rhodes Peninsula and subject of the Planning Proposal (including the subject site). It was concluded that traffic from the additional proposed development would not create measurable adverse impact when compared with the traffic conditions under the approved development. It is noted that the proposed development complies with density.

It is understood that Council has been involved in ongoing discussions with the RTA in relation to providing partial funding towards the upgrading of intersections upon which the Rhodes Peninsula relies upon, such as that of Oulton Ave / Homebush Bay Drive, to better cater for increased demand.

As identified by the proponent, the Voluntary Planning Agreement for this site and other remaining development sites at Rhodes West include monetary contributions from the various landowners towards the upgrade of local streets, in both Rhodes West and East.

In terms of parking, the proposal does not provide excessive parking and, subject to conditions, does provide general compliance with those rates stipulated within the draft Rhodes West DCP and is considered acceptable. Furthermore the commitment by the applicant to develop a 'Green Travel Scheme', promoting the use of sustainable transport options and requirement to incorporate a car share scheme will encourage a reduction in car dependency.

Parking generated by commuters of Rhodes Railway Station is separate to the development at hand.

This issue of traffic generation and parking is discussed in further detail within **Section 5** of this report.

- Provision of Infrastructure

Concern has been raised within many of the objections as to the provisions of infrastructure such as educational establishments, emergency services, recreational facilities and other services to cater for the needs of the growing population of Rhodes.

Response -

In the formulation of the Rhodes West Master Plan and subsequent LEP and DCP documents, Council did consider the proposed development on services and facilities for future residents, with that existing generally considered to have capacity to accommodate additional development anticipated.

Council is in the process of liaising with relevant government authorities, such as the Department of Education and Training with a mind to investigating means by which additional infrastructure can and will be incorporated.

It should be noted that the provision of increased densities within Rhodes Peninsula will facilitate additional open space to serve both passive and active uses and provide funding for the construction of a Community Facility within the Peninsula area to serve the needs of the existing and future population.

One submitter suggested that the provision of an underpass to the East underneath the railway line would provide a better link to services. This strategy has been identified within the draft DCP as an area of potential investigation though at this stage no formal plans have been developed.

- Public Transport

Concern over the crowded nature of trains during peak periods at Rhodes Station was cited as a common problem. The need to consider a wharf to introduce ferry services was also raised.

Response -

As outlined by the Applicant public transport patronage was considered at the time of preparing the Rhodes West Master Plan with the Masson Wilson Twiney Report. It was subsequently concluded that the train timetable enabled adequate services to cater for the future increased demand for rail service.

It is understood that the introduction of a ferry service was considered during the development of the Rhodes West Master Plan, though this has not eventuated. Council is intending to enter negotiations with Sydney Buses to potentially re-route services to provide better accessibility and efficiency.

- Overshadowing

Concern is raised in relation to the extent of overshadowing resulting from the large towers.

Response -

Resultant shadow impacts were considered at the time of preparation of the LEP and DCP. The tower buildings are compliant in terms of height though the upper level setback to Building A as detailed within section 5 of this report is slightly less than that required.

Nevertheless, in terms of overshadowing, whilst the reduced setback of Building A will increase the length of shadow cast during the afternoon hours to the East of the railway line, a minimum 3 hours solar access will be maintained to these properties East of the railway throughout all times of the year.

- Car Park Entry and Exhaust (Timbrol Ave)

A resident of the adjacent Village Quay Apartments has raised concerns with the vehicular entry to the basement car park from Timbrol Ave relating to potential headlight glare towards ground floor units as well as the location of the basement exhaust plant room and resultant carbon monoxide fumes.

Response -

In terms of vehicular access that incorporated to Timbrol Avenue is identified within the draft DCP and was intended to be the sole entry to the site. However, given the size of the basement car park the proponent has incorporated a second separate entry, from Gauthorpe Street, which also provides for the waste servicing of the site. The proposed scheme is considered desirable though should glare

issues arise, providing additional treatment to the ground floor units themselves would be the most the most effective means of resolution.

The car park plant exhaust pump room is contained within a podium level below Timbrol Avenue and setback approximately 5m from the northern boundary of the site. The submitted services report (Appendix H of the EA) does identify that compliance will be provided with AS 1668.2. Furthermore the ventilation system will be provided with *'variable speed drives (VSD) motors and CO sensors as per AS1668.2 and BCA requirements to minimise energy use and limit overall system noise levels'* Accordingly it is considered acceptable in its current location and unlikely to result in adverse impacts.

- Waste Management and Pollution

Concern has been raised in relation to bin collection from the street and subsequent odour. Dumping of garbage and trolleys from the Rhodes Shopping Centre upon the street was also noted.

Response -

In terms of waste collection, all servicing is conducted off street and within the basement area, such ensuring that there will be no impact upon the street or surrounding residents.

The issue of garbage being dumped on the street is a case by case situation and should be reported to Council. In terms of trolleys from the Rhodes Shopping Centre this does need to be taken up with the management of the centre with options such as increased retrievals investigated.

- Overdevelopment

It has been suggested that the proposal represents an overdevelopment of the site which was never intended under the draft controls.

Response

Density for the Rhodes Peninsula is controlled directly through the draft Rhodes West LEP which stipulates a Floor Space Ratio (FSR) of 2.8:1. The proposed development provides a gross floor area of 55,986m<sup>2</sup>, equating to an FSR of 2.71:1.

- Wind Impact

Concern has been raised in relation to the tower buildings and potential impact they may create in terms of wind gusts towards pedestrians traversing Walker Street. The elimination of general breezes / air flow by the towers towards other developments in the areas was also noted.

Response -

A Wind Impact Assessment was submitted with the EA and concluded that whilst the proposed development at Rhodes Precinct B, Sites 2A and 3A, is quite wind sensitive, the problem areas have been recognised and provision made for the inclusion of wind ameliorating features. It is noted that the recommendations were subject to wind testing which it is understood is yet to be carried out.

Given the location of the site in, as described above a 'wind sensitive' area and reasonable depths and separation of the tower buildings, they are not foreseen to block general breezes to the greater area.

- View to Millennium Marker

The site analysis submitted with the application does not show the view to the Millennium Marker (situated on the opposing side of Homebush Bay) and it may be compromised by the proposal.

Response -

The proponent responded to this issue identifying the fact that given the maximum height of the Millennium Marker (RL 29.00), views towards the Central Sydney Skyline would likely be impeded by development currently permissible under SREP 29 which permits approximately 8 storeys.

Given the location of the Millennium Marker in relation to the subject site, views towards it will be likely be retained. However views from this vantage point towards the Harbour Bridge (which as indicated appear to pass slightly to the North of Gauthorpe Street) will be obscured. In this regard the proposal does provide compliance in terms of height and setbacks with the draft LEP and DCP documents.

- Treatment of Western Facade

Design of high rise towers raised concern as to the architectural treatment of their western exposure. The provision of adjustable sliding screens to the balconies to reduce heat load appears desirable.

Response -

As outlined by the proponent the minimum thermal performance can be achieved through a variety of measures. A thermal comfort assessment was prepared by Eco-Specifier ESD Consultants with the development considered to perform acceptably in this regard and meeting the provisions of BASIX.

- Provision of Open Space

The underutilised nature of the public open space within the Rhodes Peninsula is cited

Response -

In developing the Rhodes West Master Plan Council did identify the need to provide additional public open space, of which for the subject site is reflected within the Voluntary Planning Agreement with a total area of 11,530m<sup>2</sup> incorporated (subject to a separate application).

Given that much development within Rhodes is still under construction, the population will inevitably grow and demand for these areas is likely to only increase. One key issue identified within the subject application and reflected within the submitted PPR was the need to activate the area of open space and in effect draw people to it. In this regard clear lines of sight through this area are maintained with retail tenancies that will provide such uses as cafes at the entry to and within the open space area.

A concept for is currently being developed with a priority being the ability of the area to support both active and passive uses, such appealing to the wider demographic of the population.

- Acoustic Privacy

Concern is raised from residents upon the eastern side of the railway line that the two tower buildings fronting Walker Street will create a sound wall, bouncing the noise of trains towards their property.

Response -

An Acoustic Assessment Report was submitted with the EA, which, amongst other things, assessed the impact of rail noise towards the buildings proposed. In terms of noise reflectivity there is no specific standard governing this; though in this instance given the separation of the tower buildings from those properties fronting Blaxland Road to the Eastern side of the railway (approximately 100m), no adverse impacts are foreseen.

- Visual Privacy

This issue of potential overlooking from the two tower buildings fronting Walker Street was raised by a number of residents within Cavell Avenue.

Response -

The proposed buildings are considered to provide adequate separation from adjoining development and exceed the recommended standards of SEPP 65. In terms of the two tower buildings, they are located more than 200m from the objecting properties and are separated by the Northern Railway Line. Accordingly whilst the buildings will be visible they will not result in adverse overlooking.



- *Signage*

A resident provided a number of suggestions for signage that could be placed throughout the Rhodes Peninsula, such as local area maps and directional signage for both pedestrians and motorists.

Response

The comments in relation to signage do not relate specifically to the site in question, and are more concerned with the Rhodes Peninsula as a whole. Accordingly this is not considered relevant to the proposal at hand and should be dealt with as a separate issue by Council.

- *Ongoing Construction Issues*

A resident raised the issue of the impact of construction activities, such as mud left by trucks upon the road and odour being emitted from the current development sites.

Response

A Construction Management Plan will be required as a condition of any approval granted by the PAC. Soil and Water Management measures are also required to be in place during construction works.

- *Staging of the Development*

Concern was raised in relation to the staging of the development, noting particularly the subject application being a part 3A with the open space area to be considered under a separate application, and potential impact upon construction time frames, roads and other public areas.

Response

The open space area to be dedicated will be subject to a separate application under Part 4 of the Act. The proponent within the submitted EA has indicated that the development will be constructed in 5 stages and in this regard the significant proportion of public open space to be dedicated will be achieved in the first 3 stages. In terms of the specific design of this area concepts are currently being developed and it is anticipated that construction and finalisation of this area will follow a similar timeframe to the construction of the actual built form.

- *Lack of Consultation & Planning*

Concern was raised in relation to timing of the consultation period and location of displays and plans

Response -

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days.

Given the lodgement date of the Environmental Assessment, just before the Christmas period the EA was notified and made publicly available from the 15 December 2010 until 11 February 2011 (58 days)

Local landowners and residents were notified of the proposal with 2,118 letters sent out, with advertisements placed in the following newspapers (Wednesday 15 December 2010):

- Sydney Morning Herald
- Daily Telegraph
- Inner West Suburbs Courier

The proposal was also made available at the following locations

- On the Department of Planning's website;
- At the Department of Planning's Information Centre; and
- At Canada Bay Council's Administration offices and at Concord and Five Dock Libraries

Accordingly it is considered that adequate consultation has occurred in relation to the application at hand. It is also noted that a similar process was conducted for the adoption of the Master Plan, LEP and DCP documents with community meetings / forums undertaken to provide relevant information.

## **5. ASSESSMENT OF ENVIRONMENTAL IMPACTS**

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Council considers the key environmental issues for the project to be:

- Built Form and Urban Design
- Communal Public Open Space and Landscaping
- Traffic and Parking
- Residential Amenity
- Section 94 Contributions / Planning Agreement

### **5.1 Built Form and Urban Design**

#### Building Height

In terms of building height, the draft Canada Bay LEP 2008 (Amendment No. 1) provides a maximum 82m height limit for the site. More prescriptive provisions are contained in the draft Rhodes West DCP.

The proposal does incorporate non compliances to the lower buildings (B & E), both of which are defined as being 5 storeys within the draft DCP. Building B provides a total of 6 storeys above Timbrol Avenue with Building E providing 7 storeys above Gauthorpe Street.

The proponent within the submitted EA did address this area of non compliance as follows:

*Buildings B and E at 6 storeys vary from the DCP controls by 1 storey. The proposed 6 storey height is considered appropriate. The additional one storey will not have any adverse impact on the surrounding areas in terms of view loss or overshadowing. It is considered more appropriate to provide an additional storey on these buildings, than to increase the width of the buildings to accommodate the floor space allowed under the draft Rhodes West LEP. A taller thinner building has less bulk and will provide better internal amenity than a shorter building with greater width.*

The non compliance to Building E is 2 storeys (clarified in PPR) due to the podium level of the basement extending to the Gauthorpe Street frontage to provide a secondary vehicular access.

In relation to resultant environmental impact, the additional storeys are not considered to result in any detrimental impact and also remain consistent with surrounding built form. However the main issues initially identified with the plans submitted in respect of EA was the fact that both of these buildings presented somewhat blank facades, providing little articulation towards the street edge, and as such exacerbating the perceived height of the buildings and subsequent bulk and scale.

Accordingly the submitted PPR did introduce greater activation and articulation as follows:

*Building B* - Additional steps introduced from common access podium level units to Timbrol Avenue with palisade fencing provided to North facing podium level units

*Building E* - Two separate retail tenancies were introduced at grade to the southern elevation of the building (spanning two storeys in height and providing associated glazing towards the street) to break up the scale of the podium wall fronting Gauthorpe Street.

The provided amendments did achieve the desired articulation and effectively alleviated the visual bulk of the buildings such that the variation is considered acceptable in this instance.

#### Building Setbacks

In terms of building setbacks, the main area of non compliance identified was that to buildings A & D which are the proposed 25 storey towers. Setbacks provided within the PPR are outlined below:

<b>Building</b>	<b>Required Setback</b>	<b>Proposed</b>
<b>Building A</b>	<u>Walker Street</u>	
	5m (To Podium)	5.22m
	10m (Northern Part / Tower)	7.89m
	15m (Forecourt Area - First 2 Storeys)	Not Provided
	Timbrol Avenue - (5m)	1.2m / 5m
<b>Building D</b>	Walker Street - (5m)	6.94m
	Gauthorpe Street - (20m) at the corner of Gauthorpe and Walker to provide forecourt	17m for first 5 storeys and 10.37m for upper storeys

Following review of the EA by GMU the setback of Building A to Walker Street was considered the main area of concern. In this regard the setback of the podium level (approximately 7 - 8m) from the street with a tower structure immediately above and only slightly setback beyond level 7 was not viewed as desirable. Accordingly under the PPR, Building A was shifted as a whole 1 - 1.5m East with the depth of the balconies to the lower levels (to level 8) increased towards Walker Street to reinforce the base of the building and differentiate the tower element. Accordingly the reduced setback is considered to reduce the dominance of the tower element, the setback of which is considered acceptable and worthy of support. The form of Building A is depicted below:

**Figures 3 and 4, View Line from Walker Street towards Building A (left) and Building D (right)**



The absence of the forecourt area depicted within the draft DCP to the corner of Timbrol Ave and Walker Street was also raised with the proponent. In this regard the levels of the site resulting from the elevated nature of the development above the parking area were cited. A more desirable and accessible entry to the lobby of building A was subsequently provided to the south off Walker Street. This was noted though it is considered integral that some form of identity / activation be provided to this corner of the site. The proponent, within the submitted PPR, has now provided the following:

- Replace ground and first floor apartments to this elevation with three split level home office units provided with direct individual access from the street frontage.
- Access was also provided to the 'managers flat' from the Timbrol Avenue frontage of Building A which is also considered desirable.



In terms of Building D, the intent of the setback at the corner of Gauthorpe and Walker Street is to enable a clear line of site to be maintained through / over the open space area contained within the development. The DCP requires the building to be setback 20m, though given that a singular column has been provided to the undercroft (minimising visual clutter), the 17m setback provided to the 6 levels of Building D above the Plaza area are considered acceptable, and as detailed below, does maintain clear sight lines through the open space area.

**Figure 5, View Line from Shoreline Avenue towards Building D**



#### Building Facades / Finishes

Despite the elevated nature of the development above a basement level podium, largely predetermined by remediated levels, the PPR does provide an acceptable streetscape resolution.

In terms of urban design, the buildings are considered to provide an acceptable massing, are well articulated and provide general compliance with the applicable planning controls.

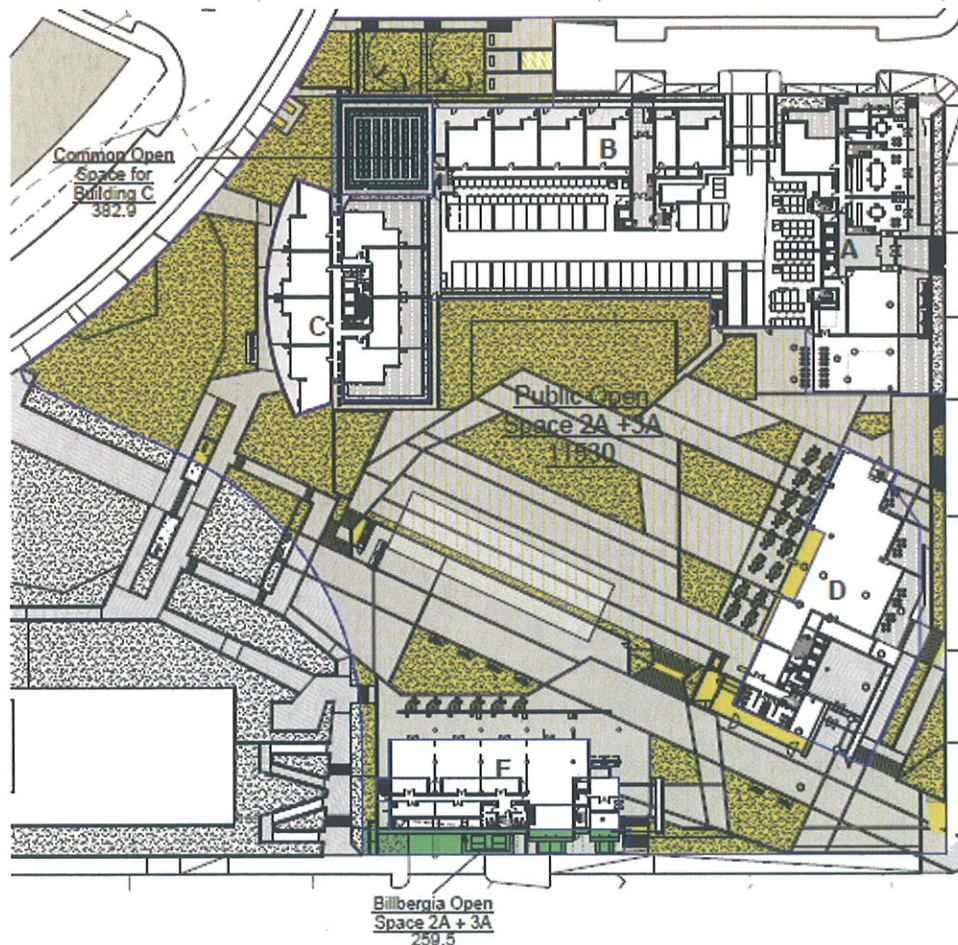
GMU did identify that the material sample board included in the submission *'presents a high standard of material finishes and well composed colour palette, which is seen as a very good design outcome'*.

## **5.2 Communal Public Open Space and Landscape**

In developing the Rhodes West Master Plan Council did identify the need to provide additional public open space. That required by the subject site is reflected within the Voluntary Planning Agreement with a total area of 11,030m<sup>2</sup> (required) with 11,530m<sup>2</sup> actually incorporated within the proposal.



**Figure 6, Indicative Area of the Public Open Space Area**



As identified within this report, the indicative area subject to dedication is merely depicted upon the submitted plans and will be subject to a separate development application. At this stage Council is in the process of developing conceptual plans for the area of open space that traverses the subject site (2A and 3A) as well as that adjacent (Site 3B), providing a total area of 16,000m<sup>2</sup>.

Given that much development within Rhodes is yet to be completed, the population will inevitably grow and demand for these areas is likely to only increase. Accordingly in respect of the application at hand it was considered integral that built form surrounding the open space did not compromise its integrity.

In this regard the Rhodes West draft DCP does provided specific provisions. As outlined above the setbacks and massing of the built form are considered appropriate, though one of the main provisions was 'to provide a view corridor along the diagonal alignment of Marquet Street by providing an undercroft space with a minimum height of 15m beneath the tower building in the south west corner of the site' with the placement of retail / non residential uses along this 'plaza' area also considered integral.

Whilst the above-mentioned undercroft is provided, following initial assessment, shortcomings which related to the activation and accessibility of this area were identified.

In this regard the submitted PPR did address concerns that were raised through amending the layout and location of the retail uses and improving address and accessibility as follows:

- Reference to the 'public facility' was removed with the setback to the south west edge of the level 1 basement structure increased, opening up the view corridor through this area
- Additional retail tenancy provided to southern elevation of Building D, fronting the entry to the public plaza with retail tenancies also introduced to the south western component of the building.



- Introduction of retail activity to the Gauthorpe Street frontage, providing activation towards the street and providing connection to the internal public plaza space.
- Provision of a more readily identifiable stair access from Gauthorpe Street and accessibility link between the main through level of the open space and elevated podium area.

**Figure 7, View Line looking West through Public Open Space Area**



Accordingly subject to the preparation of detailed plans in respect of a formal development application, it is considered that this area is well connected, accessible and will provide a high level of amenity, having potential to support both active and passive uses, such as appealing to the wider demographic.

Furthermore, whilst it is acknowledged that the public open space area will be the primary area of open space, adequate communal areas have also been provided within the development, noting particularly the 'common garden areas' upon podium level adjacent to Buildings B & C, common areas within the ground floors of Buildings A & C, and communal roof terrace to Building D.

### **5.3 Traffic & Parking**

#### Traffic Generation / Congestion

In respect to the Rhodes West Master Plan 2009 a traffic report by Halcrow MWT concluded that the additional density foreseen for the Rhodes Peninsula could be accommodated within existing traffic flows in Concord Road. This conclusion was verified by an independent traffic report commissioned by Council from consultants Transport and Urban Planning (TUPA). TUPA also made a number of observations that indicated that there were capacity issues on Concord Road regardless of the level of development in Rhodes and that additional development in this area is most appropriate due to its relationship to existing public transport.

In so far as the proposal remains consistent with the adopted Rhodes West Masterplan and within the anticipated yields, it is not considered to result / create any traffic impacts beyond those anticipated in the already adopted traffic modelling.

Furthermore in a letter dated 11 October 2010 from the RTA in response to the public exhibition of the Planning Proposal, it was advised that no objection was raised to the gazettal of the Canada Bay LEP amendment and draft Rhodes West DCP, subject to improvements being made to the Oulton Ave /



Homebush Bay Drive intersection. Council has agreed to partly fund any required upgrades and at this stage is awaiting advice from the RTA as to what specific works would be required.

### Parking

Parking incorporated within the development has been allocated as follows:

<b>Parking Allocation</b>	<b>DCP Requirement</b>	<b>Total Required</b>	<b>Proposed</b>	<b>Compliance</b>
Residential Dwelling	1 space per unit (average) (maximum)	735	735	Yes
Adaptable Spaces (inclusive in above)	1 Space per Adaptable Unit (15% of units)	115	70	No
Visitor Parking	1 space per 10 units (maximum)	74	38	Yes
Service Vehicles (Residential)	1 space per 50 units for first 200 units plus 1 (maximum)	5	Nil	Yes
Retail Parking	No parking is required	26	Nil	No
Service Vehicles (Retail)	1 space per 500m <sup>2</sup>	2	Nil	No
Motorcycle	1 space per 100 spaces	7	7	Yes

As outlined above the provision of parking for Adaptable Housing, is less than the number of apartments provided. The Adaptable Housing units are designed in such a way that they can be easily modified in the future to become accessible to both occupants and visitors with disabilities or progressive disabilities. Provision of such accommodation is also considered a way of meeting the needs of an aging population and people with a disability. This was also highlighted in the submission of NSW Health which stated *'all new developments need to anticipate and respond to the changing needs of residents as they age and / or the mobility is reduced'*

The proponent in respect of justifying this non compliance has stated the accessibility of the site and availability of public transport and stated the acceptance of another Council of this approach. This is noted though given the intent behind the provision of adaptable housing and fact that Rhodes Station is still approximately 250m from the site, providing adaptable apartments to serve this need without appropriate parking is not considered desirable. Accordingly it is recommended that compliance be provided, with at least one space provided to each apartment. To enable achievement of this within the existing basement a concession is given with parking spaces for adaptable apartments permitted to be designed in accordance with dimensions of disabled spaces (requiring slightly reduced width).

In terms of retail parking the proponent has elected to provide no off-street parking for these uses. The potential availability of on street parking has been identified within the submitted Traffic Report which anticipated that *'there will be adequate parking to cater for the likely demand for non residential uses as most users would be local who would walk or cycle to them (as would be the case with the adjoining recreational and community facilities)'*.

The decision to introduce retail parking to the draft Rhodes West DCP followed public exhibition of the document as it was considered important to maintain the commercial viability of such uses. It is noted that retail uses intended are that of 'neighbourhood shops' designed to cater for the needs more so of local residents and to activate the public space. The justification provided by the proponent and subsequent accessibility of the site by alternate means of transport is noted. Whilst strict compliance with the parking provisions is not deemed necessary, providing a degree of parking for retail tenants is considered imperative in promoting ongoing occupation of these spaces. Accordingly it is recommended that 8 spaces, reallocated from visitor parking (to ensure no additional parking) be provided for the exclusive use of retail tenants.

In terms of service vehicles, no specific spaces have been provided for either the residential or retail components of the development. However the proponent has provided specific loading bays adjacent to the waste storage area within the basement, providing a clearance height of 3.8m which will adequately cater for both larger removalist vehicles and smaller delivery vehicles. Furthermore, scope does also exist to signpost loading zones adjacent to the street frontage.

In so far as one of the main objectives within the Rhodes Peninsula is to reduce car dependence, a number of initiatives have also been incorporated within the Rhodes West DCP as follows:

#### *Car Share Scheme*

In accordance with Section 4.2.5 of the draft Rhodes West DCP the incorporation of a car share scheme. In this regard the applicant is required to designate and provide three (3) car spaces on the public road carriageway adjacent to the kerb line on one of the street frontages to the development site for the purposes of establishing a car share scheme. These car spaces shall be suitably line marked and signposted as car share scheme spaces only. Furthermore the proponent shall use its best endeavours to make all arrangements for an established car share operator to run the scheme.

#### *Green Travel Plan*

The proponent has committed to the development of a 'Green Travel Plan'. A condition requiring as such has also been recommended and requires provision of the plan to each future resident / owner of the development outlining the following prior to occupation or purchase:

- The limited street parking available in the area detailing reasons why;
- Rail, bus and ferry timetables;
- Details of the car share schemes available in the area;
- Details of the available community facilities in the area; and
- Regional cycleway plan and associated facilities, including details of local cycling groups

Given the development of a specific Cycle Strategy (section 4.2.3 of the draft Rhodes West DCP), which seeks to provide connections to regional cycleway, provide for recreational opportunities and reduce car dependency by providing alternate means of transport, it is considered integral that adequate provision is made for bicycle storage within the development.

As submitted the application does incorporate less parking than required by the draft DCP, making provision for 77 residential spaces and 60 retail spaces (it is also indicated that additional storage areas are available within the basement to store bicycles if required). To ensure adequate bicycle provision the following condition has been recommended:

#### **Bicycle Storage Provision**

*Provision for bicycles shall be in accordance with the following:*

- *At least **245** bicycle spaces shall be provided within the car parking level of the development to serve the occupants of the building. These spaces may in part be provided within the storage areas for the residential units. All bicycle spaces are to be consistent with Class 2 bicycle facility, as per AS 2890.3; Bicycle Parking Facilities.*
- *At least **105** bicycle racks shall be provided for visitors of both the residential apartments and retail tenancies. These bicycle racks are to be readily accessible and shall respond to the issue of security. A proportion of these racks shall be set aside for specific use of employees working within the retail tenancies.*

*Note - The required bicycle racks may be partially located within the open space area subject to dedication, though should this option be pursued the cost of such facility shall be borne by the developer.*

***Prior to the issue of the Construction Certificate for the above ground works, a detailed traffic plan shall be submitted and approved by the Principal Certifying Authority, clearly depicting bicycle storage locations and compliance with the above.***

## 5.4 Residential Amenity

As outlined within the compliance tables attached to this report, i.e. SEPP 65 and draft Rhodes West DCP, the proposal is considered to provide a high level of amenity, both in terms of solar access, natural ventilation and privacy. It is noted that separation distances provided within the development between the various buildings are generally compliant however upon review of the submitted EA documentation two areas of concern were identified with visual privacy conflicts apparent:

- Building B - Concern was held in relation to the open air corridor to the southern elevation of the building as clear line of sight would be afforded towards the balconies and units of the adjacent buildings A & C which only provided a separation of 5.5m and 6m respectively.
- Building D - The distance between the open access corridor of Building D and habitable balconies of Building A to lower levels of the development is 12m and considered inappropriate from a privacy perspective.

Upon submission of the PPR the proponent did take into consideration the abovementioned concerns, fitting privacy screens to the East and West elevations of the open air corridor of Building B. Privacy screens were also fitted to the Northern elevation of the open air corridor to Building D (up to level 6), and to units upon the south west elevation of Building A (to level 7), such alleviating adverse visual impact. It is also noted that Building A was also shifted 1 - 1.5m East, which did increase separation between Building A and B to 8m which was considered necessary.

## 5.5 Section 94 Contributions / Planning Agreement

Council has entered into a Voluntary Planning Agreement with the Proponent for this Part 3A development under Section 93F of the Environmental Planning and Assessment Act 1979. The Section 93F Agreement requires the Proponent to pay the following monetary contributions:-

- \$1,000 for each square metre (or part thereof) of Additional Gross Floor Area in the Development that is to be used for the purpose of retail premises within the meaning of the Amended LEP, and
- \$588.24 for each square metre (or part thereof) of Additional Gross Floor Area in the Development that is to be used for business premises within the meaning of the Amended LEP, and
- \$588.24 for each square metre (or part thereof) of Additional Gross Floor Area in the Development that is to be used for residential accommodation within the meaning of the Amended LEP

The Voluntary Planning Agreement also requires the proponent to dedicate an area of land on the subject site of approximately 11,030sqm to Council as public open space.

In accordance with Clause 5.1 of the Voluntary Planning Agreement entered into under Section 93F of the Environmental Planning and Assessment Act 1979, the following monetary contributions shall be paid to Council under the *Renewing Rhodes Contributions Framework* as follows:

### Residential Component

<b>Category</b>	<b>Rate</b>	<b>Amount</b>
Community Facilities	1 bedroom unit (\$1,176.44) x 292	\$343,520.48
	2 bedroom unit (\$2,138.98) x 413	\$883,398.74
	3 bedroom unit (\$2,780.67) x 30	\$83,420.10
<b>SUB-TOTAL</b>		<b>\$1,310,339.32</b>
Open Space	1 bedroom unit (\$1,196.39) x 292	\$349,345.88
	2 bedroom unit (\$2,175.26) x 413	\$898,382.38
	3 bedroom unit (\$2,827.84) x 30	\$84,832.20

<b>SUB-TOTAL</b>		<b>\$1,332,563.46</b>
Roads	1 bedroom unit (\$630.33) x 292	\$184,056.36
	2 bedroom unit (\$1,146.06) x 413	\$473,322.78
	3 bedroom unit (\$1,489.88) x 30	\$44,696.40
<b>SUB-TOTAL</b>		<b>\$702,075.54</b>
<b>TOTAL</b>		<b>\$3,344,978.32</b>

Retail Component (based on 1050m<sup>2</sup>)

<b>Category</b>	<b>Rate</b>	<b>Amount</b>
Library	\$72.23 (per100m <sup>2</sup> )	\$758.42
Roads	\$2518.74 (per100m <sup>2</sup> )	\$26,446.77
<b>TOTAL</b>		<b>\$27,205.19</b>

<b>OVERALL TOTAL</b>		<b>\$3,372,183.51</b>
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#### ***Timing and Method of Payment***

The contribution shall be paid in the form of cash or bank cheque, made out to City of Canada Bay Council. For accounting purposes, please specify the amount for each contribution separately (and DA details) on a cover letter submitted with the payment.

Evidence of the payment to Council shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate for above ground works on each lot.**

Note - Subject to negotiation with the proponent Council may permit the staged payment of the above-mentioned contributions.

#### ***Indexing***

All monetary amounts referred to in this condition are based on the *Renewing Rhodes Contributions Framework* and the actual amount for payment or calculating offsets **must** be adjusted in accordance with Clause 7 of Part 2 of City of Canada Bay's S94 Contributions Plan for the Concord Area prior to payment, i.e., the amounts shown are subject to the Consumer Price Index applicable at the time of payment of the Contributions. The CPI is currently **173.1** and the CPI that applied at the time the *Renewing Rhodes Contributions Framework* was adopted in 2001 was **135.4**.

## 6. CONCLUSION

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Council has assessed the EA and PPR and considered the public and agency submissions in response to the proposal.

The key issues raised in submissions related to traffic and parking, the bulk and scale of buildings proposed, provision of infrastructure to serve the Rhodes Community and the amenity of residents.

Council is satisfied that the impacts of the proposed development have been addressed in the Proponent's EA and PPR, the Statement of Commitments and the recommended conditions of approval. Furthermore, the proposal adequately addresses the Director-General's Environmental Assessment Requirements for the proposal.

The proposed development will allow for 735 dwellings in five buildings, retail tenancies, basement car parking and associated landscaping on land identified as Lot 201 of DP 1101828, 40 Walker Street, Rhodes (Site 2A and 3A - Precinct B). Furthermore, the Project Application has complied with the environmental assessment requirements, generally complied with the existing Environmental Planning Instruments and meets the intent of the existing approved Concept Plan.

The proposal is recommended for approval subject to conditions of approval

## 7. RECOMMENDATION

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It is recommended that the Planning Assessment Commission:

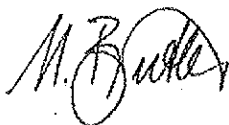
- (A) **Consider** all relevant matters prescribed under Section 75J (2) of the *EP & A Act 1979*, including those relevant matters prescribed by Section 75I (2) as contained in the Director General's Environmental Assessment Report (**TAG 1**);
- (B) **Having considered** all relevant matters under the Act in accordance with (A) above, **approve** Project Application (MP 10\_0105) subject to conditions pursuant to Section 75J (1) of *EP&A Act 1979*; and,
- (C) **Sign** the Instrument of Approval at **TAG 2**.

Prepared by:



Samuel Lettice  
**Senior Planner**  
Canada Bay Council

Endorsed by:



Narelle Butler  
**Manager**  
Canada Bay Council

Approved by:



Tony McNamara  
**Director**  
Canada Bay Council

## **APPENDIX A – ENVIRONMENTAL ASSESMENT**

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See attached CD - ROM