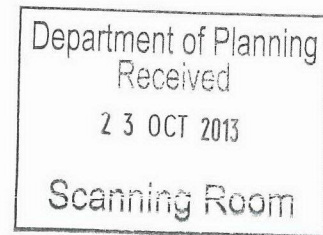




PCU048850

1 October 2013

Department of Planning & Infrastructure
23-33 Bridge Street,
SYDNEY NSW 2000

**ATTENTION: Director Heather Warton and Jane Flanagan**

Dear Sir/Madam

Modification Application for Sites 2A and 3A, 40-42 & 44-46 Walker Street, Rhodes (MP 10_0105 MOD 3)

This letter incorporates Council's comments and concerns in relation to the above proposal:

1. Floor Space in Precinct B

Billbergia has signed a Voluntary Planning Agreement (VPA) with Council regarding the amount of Floor Space which is to be built on Sites 2A and 3A at 40 Walker Street.

Initially this amount of floor space was worked out based upon a Memorandum of Understanding reached between Renewing Homebush Bay (RHB) and Billbergia in (August 2008) about the sharing/ allocation of remaining floorspace in Precinct B between the two Companies (Billbergia bought sites 1A, 2A and 3A from RHB). The Memorandum was based on compliance with the cap of floorspace in Precinct B as part of SREP29 (Clause 14) and the subsequent Precinct B MasterPlan.

2. Agreements relating to "additional" floor space

Subsequent to establishment of the above DOP "approved" floor space, "additional" floorspace which was agreed to in the VPA, was based on floor space shared out amongst developers in the Stage One Rhodes West Masterplan via:

- Consideration of sizes of sites, and consensus reached amongst developers in the Rhodes West Developer Consortium;

ENGLISH

If you do not understand this correspondence, please come to the Council or contact the Telephone Interpreter Service (TIS) on 13 14 50 and ask them to connect you to Council on 9911 6555 . We will try to answer your enquiries by using an interpreter.

ITALIAN

Se hai difficoltà nel capire la presente comunicazione, presentati al Council, oppure rivolgiti al Tis (Servizio telefonico interpreti) chiamando il 13 14 50 e chiedi di essere messo in contatto con il Council al 9911 6555 . Cercheremo di rispondere alle tue domande con l'aiuto dell'interprete.

INDONESIAN

Kalau anda kurang memahami surat ini, harap datang ke kantor Kotapraja (Council) atau menelepon Pelayanan Juru Bahasa Melalui Telepon (Telephone Interpreter Service - TIS) pada nomor 13 14 50 dan minta agar anda dihubungi dengan Kotapraja pada nomor 9911 6555 . kami akan berusaha menjawab pertanyaan anda dengan menggunakan jasa seorang juru bahasa Indonesia.

SPANISH

Si usted no entiende este comunicado, venga al Municipio o llame al Servicio Telefónico de Interpretes al 13 14 50, y pida que le conecten al Municipio de al 9911 6555 . Trataremos de contestar sus preguntas a través de un interprete.

FRENCH

Si vous ne comprenez pas cette correspondance, veuillez vous rendre dans le bureaux de la Municipalité (Council), ou appelez le Service d'Interprétation au Téléphone (TIS) au 13 14 50 et demandez que l'on vous mette en communication avec la Municipalité dont le numéro de téléphone est le 9911 6555 . Nous essayerons de répondre à vos questions avec l'aide d'un interprete.

VIETNAMESE

Nếu quý vị không hiểu thư này, xin tới Hội Đồng Thành Phố, hay gọi Dịch Vụ Thông Ngôn qua Điện Thoại (TIS) ở số 131450 để nhờ thông ngôn nối đường giây của quý vị với Hội Đồng Thành Phố ở số 9911 6555 . Chúng tôi sẽ cố gắng trả lời các thắc mắc của quý vị qua một thông ngôn viên.

RUSSIAN

Если вам что-либо непонятно в этой переписке, пожалуйста, зайдите в муниципальный или позвоните в Телефонную переводческую службу (TIS) по телефону 131450 и попросите соединить вас с муниципальный, номер телефона 9911 6555 . Мы попытаемся ответить на ваши вопросы с помощью переводчика.

GREEK

Αν δεν καταλαβαίνετε αυτήν την αλληλογραφία, παρακαλούμε ελάτε στην Δημαρχία ή επικοινωνήσετε με την Τηλεφωνική Υπηρεσία Διερμηνέων (TIS) στο 131450 και ζητήστε τους να σας συνδέσουν με την Δημαρχία, στο 9911 6555. Θα προσπαθήσουμε να απαντήσουμε στις ερωτήσεις σας μέσω διερμηνέα.

CHINESE

如果你不明白本函內容，請親臨 市議會，或者致電131450與電話口譯員服務（簡稱TIS）聯絡，要求職員替你把電話接駁到市議會，電話是 9911 6555。我們會通過口譯員盡量回答你的查詢。

- Testing by Urban Design Consultant (shadows, built form, spatial considerations, views from the water, SEPP65 considerations etc) as part of detailed design workshops which allowed building footprints to be indicated in Council's Rhodes West Development Control Plan, and which then facilitated the subsequent Development Application process.

The bonus floorspace was in addition to the "approved" floor space which Billbergia had purchased from RHB (reflected in the Memorandum of Understanding) and part of which was used up in site 1A.

Therefore, in finalising the Rhodes West Stage One MasterPlan involving VPAs, Council ensured that "approved" floorspace was what could have been realised under SREP29 and the Precinct B MasterPlan, and that the "additional" amount of floorspace agreed to in the Billbergia VPA was locked in. The VPA established in effect a "new cap".

3. Comparison of floorspace under SREP29 definition and Standard template definition

Amendment 1 to CCB LEP 2008 replaced SREP29 and rounded up the Floor Space applicable to the site, to 2.8:1, in anticipation of Council's Comprehensive Plan which was to have a more stringent definition of floorspace than SREP29 based on the new Standard Template definition. The "rounding process" was done on the understanding that the development is "capped" anyway by the amounts referred to in the VPA (ie with a FSR of 2.71:1).

It is incorrect of the developer to argue that the site has spare floor space capacity based on the SREP29 definition of floorspace. Calculations of floor space under both SREP29 and the new current Standard Template definition must be provided so that they can be compared, and so that it can be properly assessed as to whether the 2.8:1 in the LEP has been breached and to what extent. In this regard, it is noted that significant numbers of winter gardens have not been included in the floor space totals, and that if this component is added (as it should be), then the amount of variation of floorspace from that which was approved, is considerably greater than is currently appreciated in the Modification Report. Both calculations based on the two definitions should be requested so that they can be compared, understood and properly assessed. In other words, it is necessary to compare "apples with apples" when considering the floorspace limit, and the winter gardens should not be excluded.

4. VPA Monetary Contribution towards Retail Floorspace

The VPA requires additional retail floorspace to be paid for at the rate of \$1,000 per square metre. The Precinct B Masterplan provided the approved level of retail/commercial floorspace in Precinct B for the purpose of the VPA.

5. Public Notification and Council resolution to vary the VPA

There is a VPA in place between Billbergia and Council, and any increases in floorspace, commercial and/or residential, require a draft Deed of Variation to the VPA and public notification. Any amendment to the VPA requires a resolution of Council. This process should be undertaken prior to any approval of the S75W Modification by the Department.

6. Inconsistencies in reference to CPI

Council wishes to mention that there are some inconsistencies with the DOP's previous modification regarding the CPI Index. (Condition 22 of Mod 2)

7. Height Limit

It is also noted that the LEP limits the height of the development to 82m. The proposal (page 27) refers to a height of 84m.

Council is happy to further discuss the above points if required. Please contact Council Urban Renewal Manager, Ursula Lang, on 9911 6405 or Council's Senior Planner, Sam Lettice, 9911 6449.

Yours faithfully



Tony Pavlovic 2/10/13

Acting Director, Planning and Environment