

SECTION 96(1A) APPLICATION
MP 05_0039
COUNCIL REFERENCE DA 420/2007

LOT 100, 52 WALKER STREET, RHODES
AMEND CONDITION F1

NOVEMBER 2008

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1.0 INTRODUCTION

This Statement of Environmental Effects accompanies a Section 96(1A) application by Meriton Apartments Pty Ltd to amend MP 05_0039 (Council Reference DA 420/2007).

The application seeks to amend condition F1 of the development consent, which relates to issuing of occupation certificates.

This application provides an assessment of the proposed changes against the relevant levels of consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 has been undertaken as part of the design process. Attention is particularly given to the following:

- Sydney Regional Environmental Plan No. 29 – Rhodes Peninsula;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- Rhodes Peninsula Development Control Plan 2002.

2.0 THE SITE

The subject site is located at the northeastern end of the Rhodes Peninsula (see Figure 1). The site is bound by Point Park Street, Shoreline Avenue, Meredith Avenue and Walker Street.

The site has an area of 6,795m² and its title reference is Lot 100, DP 1049649.

The Minister for Planning has granted an approval on the site for a multi-unit housing development containing 179 residential apartments, a shop and basement car parking.

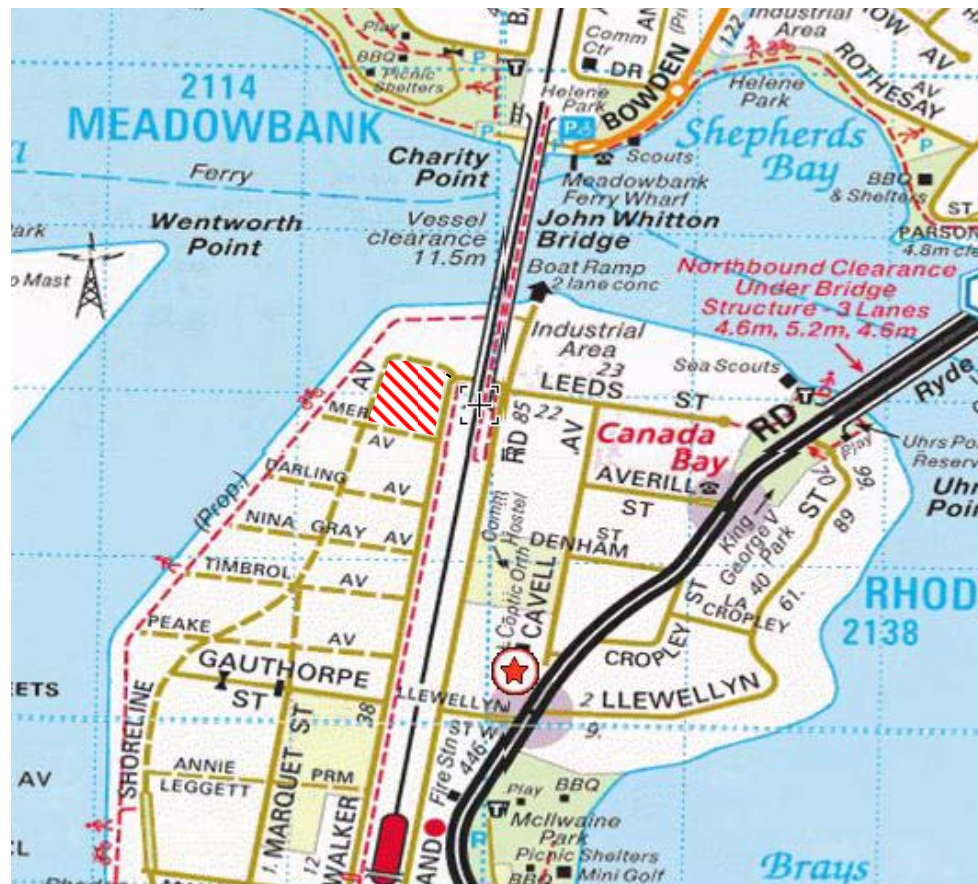


Figure 1: Location of subject site (shown hatched)

The area surrounding the immediate development site comprises the remainder of Precinct C, which is currently subject to a remediation program to remove contaminants from its soils.

Immediately to the east of the site is the Northern line of the CityRail network. Further to the east, over the railway line, are the existing industrial and residential areas of Rhodes.

Land to the south of Precinct C is occupied by a mixture of residential and commercial development in Precincts A, B and D. This includes the Rhodes Waterside Shopping Centre.

To the west of the site, on the other side of Homebush Bay, is the light industrial area of Homebush Bay.

Land to the north of the site, over Parramatta River, is occupied by foreshore parkland and the residential areas of Meadowbank and West Ryde.

The site has good access to nearby arterial roads, including Homebush Bay Drive and Concord Road, connecting directly to Victoria Road to the north and Parramatta Road and the M4 to the south from Walker Street. There is existing public transport infrastructure, with direct access to buses, on Concord Road, and train, at Rhodes Railway Station. The site is also close to the ferry wharf at Meadowbank.

3.0 PROPOSED MODIFICATION

3.1 EXISTING CONSENT

On 12 June 2007, the Minister for Planning granted development consent (MP 05_0039) to the following development on the subject site:

179 residential dwellings contained in three buildings with a GFA of no more than 19,153 sqm; a retail facility at ground level; basement car park over two levels containing a total of 201 spaces; and provision of landscaping works and shared facilities.

The consent has been subsequently amended.

3.2 PROPOSED AMENDMENTS

It is proposed to amend condition F1 of the development consent, which relates to the issue of occupation certificates for the development. See section 3.3, below, on how the condition is to be amended.

Condition F1 in its current form prevents any occupation of Lot 100 until such time as a site audit statement has been issued for the entire site (Precinct C).

Meriton has undertaken discussions with its environmental consultants on the issue of occupation and there is certainty that a risk assessment report can verify that it will be safe to occupy Lot 100 once thermal treatment of contaminated soil has ceased. This will be prior to the issue of a site audit statement for the entire site (Precinct C), whilst other works are taking place such as excavation of Lots 101 and 102, building up of Shoreline Avenue, decommissioning of the Direct Thermal Desorption plant and the pretreatment building and removal of ponds.

Accordingly, it is sought to amend the condition to permit occupation, whilst other works are taking place on site which will not be harmful to residents. This will be verified by a human health risk assessment report.

Discussions have occurred with Department of Environment and Climate Change (DECC) on this matter and Meriton has committed to work closely with DECC on this issue.

The proposed modification is consistent with the amended Statement of Commitments previously approved by Council.

3.3 AMENDMENT TO CONDITIONS

The following condition will need to be amended or deleted from the consent as a result of the proposed modification.

3.3.1 Condition F1

Condition F1 refers to the issuing of occupation certificates for the development. **The condition is to be amended**, as follows (amendments shown struck through and in bold):

*No Occupation Certificate (including interim certificates) shall be issued prior to the completion of ~~remediation activities~~ **thermal treatment of contaminated soil** in Precinct C. In this regard, a Site Audit Statement is to be prepared in accordance with the Contaminated Land Management Act 1997 and completed by a site auditor accredited by the Environmental Protection Agency. The site audit statement shall be provided to the PCA verifying that the whole of 42 Walker Street (also known as Precinct C), is fully remediated in accordance with development consent DA 233-7-2002. **Should occupation be sought prior to the issue of a Site Audit Statement encompassing all areas within Precinct C, the applicant shall prepare a human health risk assessment for occupants, to demonstrate that there are no significant risks to occupants of the development from ongoing decommissioning, excavation and filling works.***

4.0 THRESHOLD TEST – SUBSTANTIALLY THE SAME

It is considered that the development is substantially the same as the original approval.

The application proposes to make amendments to a condition of the consent. There will be no material effect on the development in terms of its built form.

On this basis, the proposed amendments are considered to constitute substantially the same development and are, therefore, accessible under Section 96(1A) of the Environmental Planning and Assessment Act, 1979.

5.0 ENVIRONMENTAL ASSESSMENT

This section undertakes an assessment of the proposal under the heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended).

5.1 SECTION 79C(1)(a)(i) – ANY ENVIRONMENTAL PLANNING INSTRUMENTS

The following Statutory Instruments are relevant to the subject site:

- Sydney Regional Environmental Plan No. 29 – Rhodes Peninsula;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (REP SHC).

5.1.1 Sydney Regional Environmental Plan 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. In accordance with provisions of Clause 5, the Minister for Infrastructure, Planning and Natural Resources is the consent authority for development applications within the area subject to SREP No. 29.

The aims of the plan are:

- "(a) to establish planning principles for development within the Rhodes Peninsula, and
- (b) to rezone land in the Rhodes Peninsula, and
- (c) to promote the orderly and ecologically sustainable use and development of land, and
- (d) to identify appropriate levels of retail and commercial floor space, and
- (e) to promote the orderly and economic use and development of land within the Rhodes Peninsula."

The proposed modification remains generally consistent with the aims of the REP.

5.1.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (REP SHC)

The plan covers the area of Sydney Harbour, including Parramatta River and its tributaries and the Lane Cove River. The plan aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways. It establishes planning principles and controls for the catchment as a whole. The plan consolidates and replaces the following instruments:

- Sydney Regional Environmental Plan No. 22 – Parramatta River (SREP 22);
- Sydney Regional Environmental Plan No. 23 – Sydney and Middle Harbours (SREP 23); and
- Amends State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56).

The aims and objections of the REP are not compromised by the proposed modification.

5.2 SECTION 79C(1)(a)(ii) – ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

There are no draft environmental planning instruments relating to the proposed modification.

5.3 SECTION 79C(1)(a)(iii) – ANY DEVELOPMENT CONTROL PLAN

5.3.1 Rhodes Peninsula Development Control Plan 2002

The DCP, prepared pursuant to Section 51A of the Environmental Planning and Assessment (EPA) Act, 1979 and Part 3 of the EPA Regulations 2000, came into force on 3 December 2001. The DCP provides detailed development provisions, which complement the development standards and land use controls of SREP No. 29 – Rhodes Peninsula. It aims to achieve a high quality urban environment and to establish the Rhodes Peninsula as an attractive, safe and vibrant part of Sydney.

There are no provisions of the DCP that are particularly relevant in the assessment of the proposed amendment.

5.4 SECTION 79C(1)(a)(iiia) – PLANNING AGREEMENTS

Not applicable.

5.5 SECTION 79C(1)(a)(iv) – REGULATIONS

There are no matters prescribed by the regulations for this modification.

5.6 SECTION 79C(1)(b) – LIKELY IMPACTS

The proposed amendment will not have any adverse impact as the condition is proposed to be amended in such a way that will ensure that health and safety of occupants of the site. There are no other adverse impacts that will result from the proposed modification.

5.7 SECTION 79C(1)(c) – SUITABILITY OF THE SITE

The proposed amendment will not affect the suitability of the site. There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

5.8 SECTION 79C(1)(d) – ANY SUBMISSIONS

To be considered by the Council should notification be required.

5.9 SECTION 79C(1)(e) – THE PUBLIC INTEREST

For the reasons set out in this Statement, it is considered that the public interest would be best served by approval of the application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.

6.0 CONCLUSION

The proposed modification seeks to amend condition F1 of the development consent, which relates to issuing of occupation certificates.

The proposal satisfies the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979. The modification is generally consistent with provisions contained in the SREP No. 29, SREP (Sydney Harbour Catchment) 2005 and the Rhodes Peninsula DCP 2002.

The development is substantially the same as when originally approved for the purposes of Section 96 of the Environmental Planning and Assessment Act and will have no implications upon the public domain.

It is therefore submitted that the Department of Planning grant consent to the Section 96 application and amend the development consent in the manner requested.

