

JOINT REGIONAL PLANNING PANEL
(Sydney Region East)

JRPP No	2012SYE106
DA Number	527/2011
Local Government Area	Canada Bay Council
Proposed Development	Staged Development Application for demolition of existing structures and construction of a new Residential Development containing and 501 units comprising 250 Affordable Housing units and 251 market housing units future café space over 3 basement levels of parking for 500 vehicles.
Street Address	No. 27 Leeds Street, Rhodes (Lot 121 in DP 561569)
Applicant	Mecone Pty Ltd
Owner	BH Australia Leeds Pty Ltd
Number of Submissions	Twenty-six (26) public submissions
Recommendation	Refusal
Report by	Ms Narelle Butler - Manager Statutory Planning Services Canada Bay Council

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1. SITE AND BACKGROUND

1.1 Subject Site

The applicant seeks consent for approval of a *Staged Development Application for demolition of existing structures and construction of a new Residential Development containing future café space and 501 units comprising 250 Affordable Housing units and 251 market housing units over 3 basement levels of parking for 500 vehicles.*

The subject site is located within an *IN1 General Industrial* zone. The proposed development is prohibited within the designated land use zone and is only permissible on the site by virtue of the fact that it has been lodged under the provisions contained in *Division 5 – Residential Flat Buildings – Social Housing Providers, Public Authorities and Joint Ventures of State Environmental Planning Policy (Affordable Rental Housing) 2009.*

The subject site is located on the north-eastern corner of Leeds Street and Blaxland Road, Rhodes and is located within the local government area of Canada Bay. The site has a 75m frontage to the Parramatta River and the eastern boundary adjoins an existing occupied industrial site.

The frontage to Leeds Street is 79.6 metres and the frontage to Blaxland Road is 146.58 metres. The foreshore (rear) boundary measures 75.195 metres and the eastern (side) boundary with the adjoining industrial site is irregular as it steps in from the adjoining site – the first section from Leeds Street measures 61.72 metres and the remaining section down to the foreshore measures 71.16 metres.

According to the submitted survey plan, the site falls between approximately 5.5 metres and 6.5 metres from the front (southern) boundary down to the boundary with the foreshore with the lowest point being in the north-eastern corner of the site.

The subject site is made up of a single allotment known as Lot 121 in Deposited Plan No. 561569, No. 27 Leeds Street, Rhodes. A right of way 4.875 metres wide affects the lot in its south-eastern corner and this provides vehicular access rights to the adjoining property at No. 25 Leeds Street, Rhodes. An electricity substation is also located on the site on its south-western corner and this part of the land is affected by a lease held by Ausgrid (formerly Energy Australia). It is likely that this substation will need to be relocated as part of the proposed signalisation of the intersection of Blaxland Road and Leeds Street.

Existing on the site is a two storey brick and metal factory building and at grade carparking areas. There are four (4) existing vehicular crossings to the site – three (3) from Blaxland Road and one (1) from Leeds Street. The building is currently vacant but was previously used as a warehouse, distribution and administration centre by Angus and Coote.

The extent of the site (outlined in heavy black line) is indicated in the aerial map below.

Aerial map



The site is generally rectangular in shape and has a total area of 10,950m².

The site is a corner location with street frontages to both Leeds Street and Blaxland Road in Rhodes with the primary frontage along Leeds Street. This site is located in an *IN1 General Industrial* zone with an *R2 Low Density Residential* zone located on the opposite side of Leeds Street and an *R3 Medium Density Residential* zone further to the south of the R2 zone. The *IN1 General Industrial* zone continues further to the east along Leeds Street to Concord Road and further to the south down to Averill Street.

Surrounding development includes industrial buildings to the east along Leeds Street and down into Cavell Avenue and Averill Street to the south-east of the site. Single storey dwellings are located immediately opposite the site to the south and south-east, and the Northern Railway Line is located to the west on the opposite side of Blaxland Road with the John Whitton Bridge adjacent to the railway line being a State listed heritage item. The Parramatta River foreshore is located to the north of the site with Meadowbank and its medium density residential flat developments located on the opposite side of the river.

1.2 Background

On 26 March 2010, Mecone Pty Ltd lodged an application for a Site Compatibility Certificate (SCC) with the then Department of Planning for a residential development including 50% Affordable Housing under *Division 5 – Residential Flat Buildings – Social Housing Providers, Public Authorities and Joint Ventures of State Environmental Planning Policy (Affordable Rental Housing) 2009*. The submission lodged with the application for the SCC was based on an urban design concept developed by Architect + Partners and which involved the following:-

- Three (3) main building forms ranging in height from 7 storeys to 9, 12 and 16 storeys
- The main building extended in an L-shape across the Leeds Street frontage and the eastern (side) boundary with the adjoining industrial property – this building was proposed at 7 storeys across the Leeds Street frontage and up to 12 storeys adjacent to the eastern boundary

- The remaining two buildings included a 16 storey building located centrally adjacent to the Blaxland Road frontage and a 9 storey building located towards the north-eastern section of the site
- A 20 metre setback from the Parramatta River foreshore with this area used as open space
- A floor space ratio of 3.55:1
- 500 units comprising 142 x 1 bed/studio, 95 x 2 bed and 14 x 3 bed units (251) as Affordable Rental Housing and 70 x 1 bed/studio, 144 x 2 bed and 35 x 3 bed units (249) as Market Housing
- Approximately 20,000sqm of public open space with a proposed parkland to be established at the northern end of Blaxland Road (not all part of the site – included a substantial component of Council-owned land comprising the currently proposed shared pedestrian zone in Blaxland Road)
- Scope for a ferry wharf to be established at the north-eastern corner of the foreshore side of the site.

On 9 April 2010, Council forwarded a submission to the Director-General objecting to the application for the SCC on the basis that the proposal was inconsistent with the following plans, policies and planning issues:-

- Sydney Metropolitan Strategy
- Inner West Draft Subregional Strategy
- Draft Canada Bay Local Planning Strategy
- Canada Bay Local Environmental Plan 2008
- State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the proposal was not compatible with existing and approved land uses in the vicinity of the site, and the adverse impact (including its bulk and scale) that the development would have on the existing and approved uses and any preferred future uses of the land.
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development in that the proposal did not satisfy the Design Quality Principles for Context, Scale and Social Dimensions and Housing Affordability.
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 in that the requirement for a Masterplan for strategic foreshore sites had not been satisfied
- Occupancy rates of industrial properties in the vicinity of the site is high, signalling strong demand for urban industry in the locality and, with the exception of the subject site, no other requests for rezoning were received during the public exhibition of the draft Canada Bay Local Planning Strategy
- The Canada Bay Local Government Area is already more than meeting its dwelling number targets
- The submission did not accurately reflect the surrounding context of the site and the subject proposal would result in a significant building mass located immediately adjacent to the foreshore.

On 2 September 2010, the Director-General of the then Department of Planning issued the Site Compatibility Certificate on the basis that the site of the proposed development is suitable for more intensive development and that development for the purposes of affordable rental housing of the kind proposed in the application for the SCC was compatible with the surrounding development.

The SCC also requires the proposal to be reconfigured to ensure that the amenity of surrounding residential areas is not adversely affected with particular reference to overshadowing and overlooking, and requires investigation of a Green Travel Plan and reducing on site parking with details of these to be included in a master plan and any subsequent development application. The SCC also states that the applicant is required to demonstrate that the relevant objectives of the Affordable Housing SEPP have been met as part of the master plan and any subsequent development application, and include a thorough contextual analysis in the master plan and the DA demonstrating that the development is compatible with its surrounds.

This proposal was originally lodged with the then Department of Planning as a major project under Part 3A of the Environmental Planning and Assessment Act 1979. However, the project application was revoked with the commencement of the Environmental Planning and Assessment Amendment (Part 3A Repeal) Regulation 2011 in October 2011 as no Environmental Assessment requirements for the proposal had been issued by the Director-General of the Department of Planning.

On 20 June 2011, the applicants, Mecone Pty Ltd met with senior Council staff to discuss the lodgement of a Development Application to Council for the previous Part 3A proposal for an affordable housing development on the site. Following this meeting, Council forwarded a letter to the applicants dated 18 July 2011 advising that Council maintained its concerns with regard to the proposal as originally set out in the Council submission on the Site Compatibility Certificate. Council also advised that any development application would need to fully address the Affordable Housing SEPP and the requirements for a Master plan under the SREP for Sydney Harbour, particularly with respect to Council's concerns that there is insufficient infrastructure in the locality to support the proposed development.

In July 2011, St George Community Housing secured funding from the National Rental Affordability Scheme to support the supply of 251 Affordable Housing places within the Leeds Street proposal.

The Staged Development Application was lodged with Council on 23 December 2011. A letter was forwarded to the applicant on 11 January 2012 following a review of the Staged Development Application by Council's planning staff. This letter raised the following issues:-

- Compliance with the provisions of the Affordable Housing SEPP (additional information required regarding social housing provider as proponent)
- Staged DA provisions under S83C of the EPAA 1979 questioned as a means of overcoming the requirement for a Master plan under Clause 46 of the SREP for Sydney Harbour
- Currency and Validity of the Site Compatibility Certificate given alterations to original proposal submitted to the then Department of Planning
- Affordable Housing Report out of date (additional information required)
- Phasing of staged development works (additional information required)
- Traffic Report considered inadequate and out of date and Green Travel Plan considered inadequate
- Impact on adjoining Heritage Item (John Whitton Bridge) not addressed
- No drainage assessment of the site and/or conceptual design provided
- No BASIX Certificate or assessment provided
- Contamination Assessment Report inadequate
- Geotechnical Report inadequate as it relied on information contained in Contamination Assessment Report and did not provide full and proper assessment
- Acid Sulphate Soils Assessment required
- Noise and Vibration Impact Assessment required
- Accessibility Assessment required given that 50% of development proposed as Affordable Housing
- Wind Impact Assessment required
- Construction Management Plan required with Phasing of Development details
- Inaccurate and Inadequate Services and Utilities Report provided
- Evidence of consultation with Dept of School Education required given additional child population likely to be generated by proposal
- Full scale sets of architectural plans, solar access diagrams, landscape concept plans and survey plan required
- Design Verification Statement not signed and SEPP 65 assessment inadequate. No Sample Board provided
- No Waste Management Plan or Strategy provided

As a result of the above issues, the Applicant was requested to withdraw the Staged Development Application. The application was not placed on public notification and no referrals were undertaken to internal Council staff or external authorities.

The Applicant advised Council in writing on 7 February 2012 that they wished to proceed with the Staged Development Application and provided additional information in response to the matters raised in Council's letter of 11 January 2012 as follows:-

- Legal advice from Hannaford Lawyers provided in response to issues of permissibility under Affordable Housing SEPP, use of Staged DA provisions under Section 83C of the EPAA 1979, currency of Site Compatibility Certificate and compliance with Clause 46 of the SREP for Sydney Harbour.

- Further response provided to Clause 46 of the SREP for Sydney Harbour and phasing of the development stages.
- Updated Affordable Housing Study Report provided
- Updated Traffic Report with a Green Travel Plan provided to Council
- Heritage Impact Statement provided to Council and reviewed by Council's Heritage Advisor and also referred to the NSW Heritage Office as John Whitton Bridge which adjoins the subject site is a State listed heritage item
- No drainage assessment has been submitted – Council considers that at a minimum, a conceptual drainage assessment and design should be provided so that there is a level of certainty provided with respect to hydraulic issues before detailed stages of the development application process are undertaken
- No BASIX Certificate has been submitted – again Council considers that at a minimum, a conceptual BASIX assessment should be undertaken – there is no exemption contained with the BASIX SEPP for Staged Development Applications
- No further information provided on potential Contamination issues – see comments of Environment Protection Agency and Council's Environmental Health Officers. Council maintains that the assessment undertaken to date is inadequate and does not satisfy the provisions of SEPP 55
- Additional geotechnical assessment provided – Council maintains that the assessment undertaken to date is inadequate
- No further Acid Sulphate Soil assessment provided - Council maintains that the assessment undertaken to date is inadequate and does not satisfy the pre-approval conditions specified in the Canada Bay Local Environmental Plan 2008 as it relates to Acid Sulphate Soil
- No further Noise and Vibration assessment provided
- No Accessibility Assessment provided
- A Wind Assessment prepared by SLR Global Environmental Solutions has been provided
- No Construction Management Plan has been provided
- An updated Services and Utilities Report has been provided
- No consultation has been undertaken with the Department of School Education
- A signed version of the Design Verification Statement has been completed by the architects, Marchese Partners, with some minor additional comments included in Principle 4 – Density and Principle 7 – Amenity
- No Waste Management Plan or concept plan for waste services has been provided
- No full-scale versions of the floor plans, survey plan or landscape concept plan were received

The proposal, including the additional information provided by the applicant, was placed on public notification from 21 February 2012 to 6 March 2012 inclusive. The additional information and the original submission was then referred to all relevant internal and external authorities for review and comment.

2. PROPOSED DEVELOPMENT

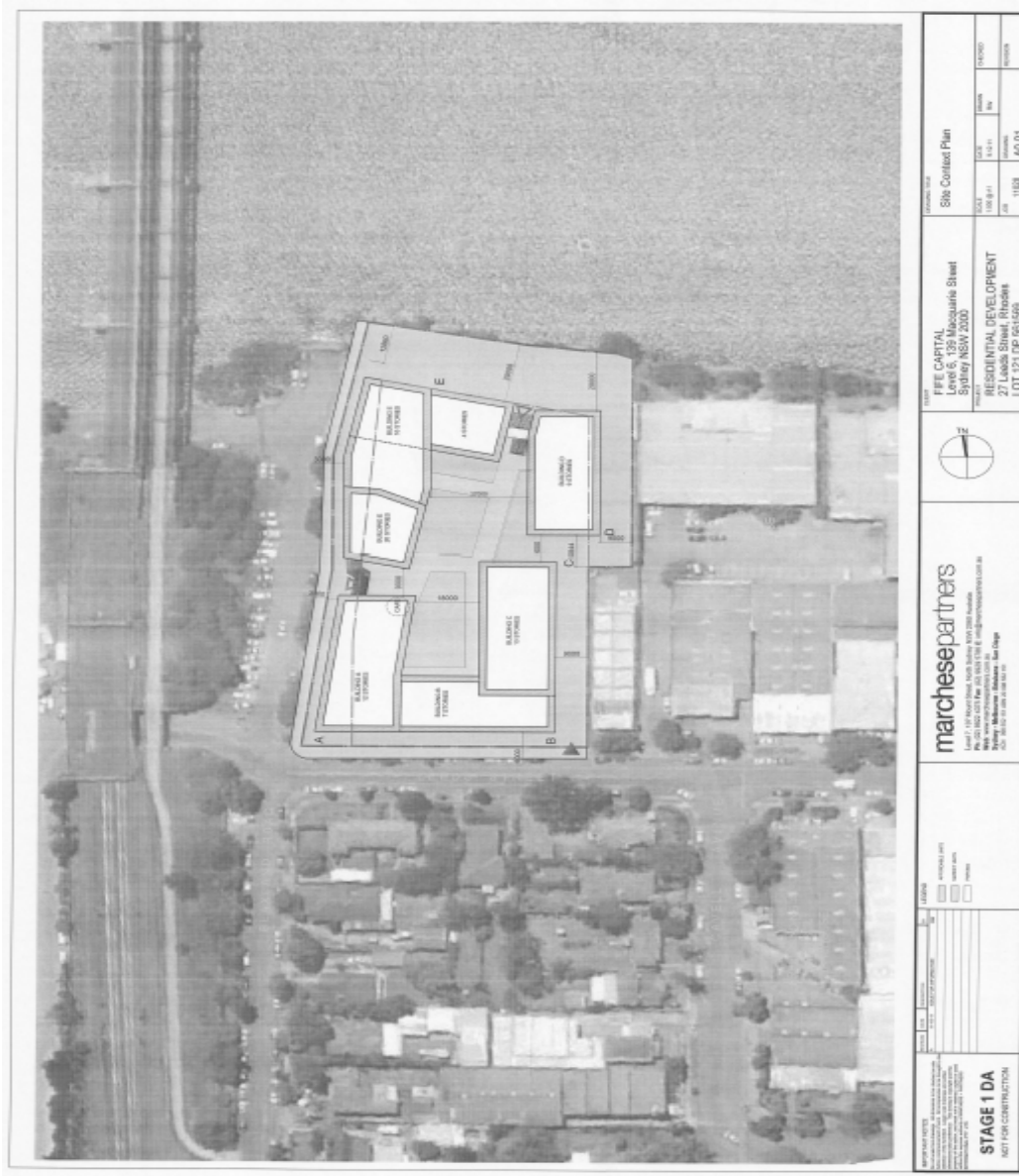
2.1 Project Description in Detail

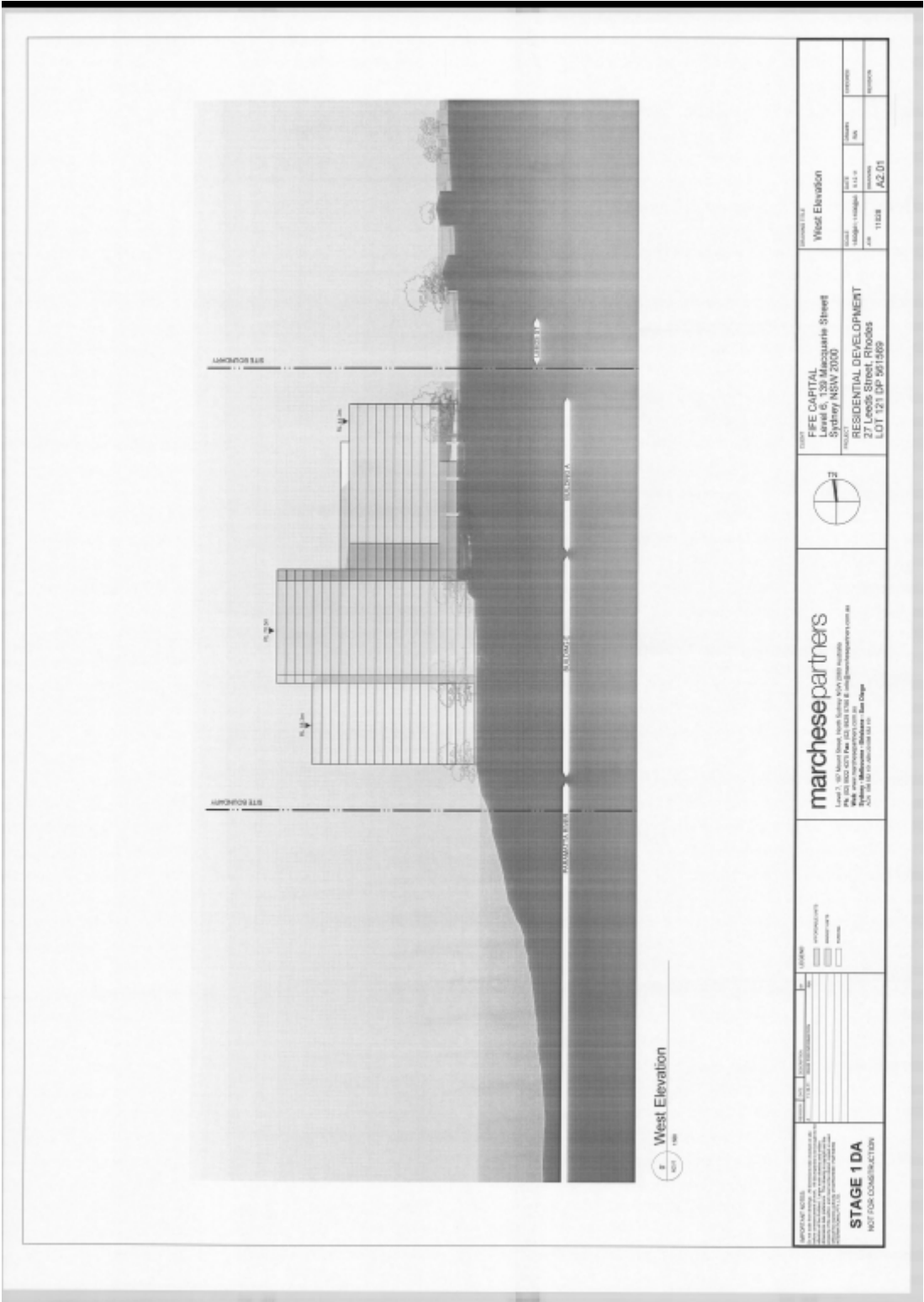
The proposal involves demolition of all existing structures on the site and construction of a residential flat development containing 250 affordable housing units and 251 market housing units. The development comprises 3 built forms around the perimeter of the site ranging in height from 4 storeys to 7, 9, 12, 13, 16 and 20 storeys with 3 basement parking levels below providing 500 parking spaces.

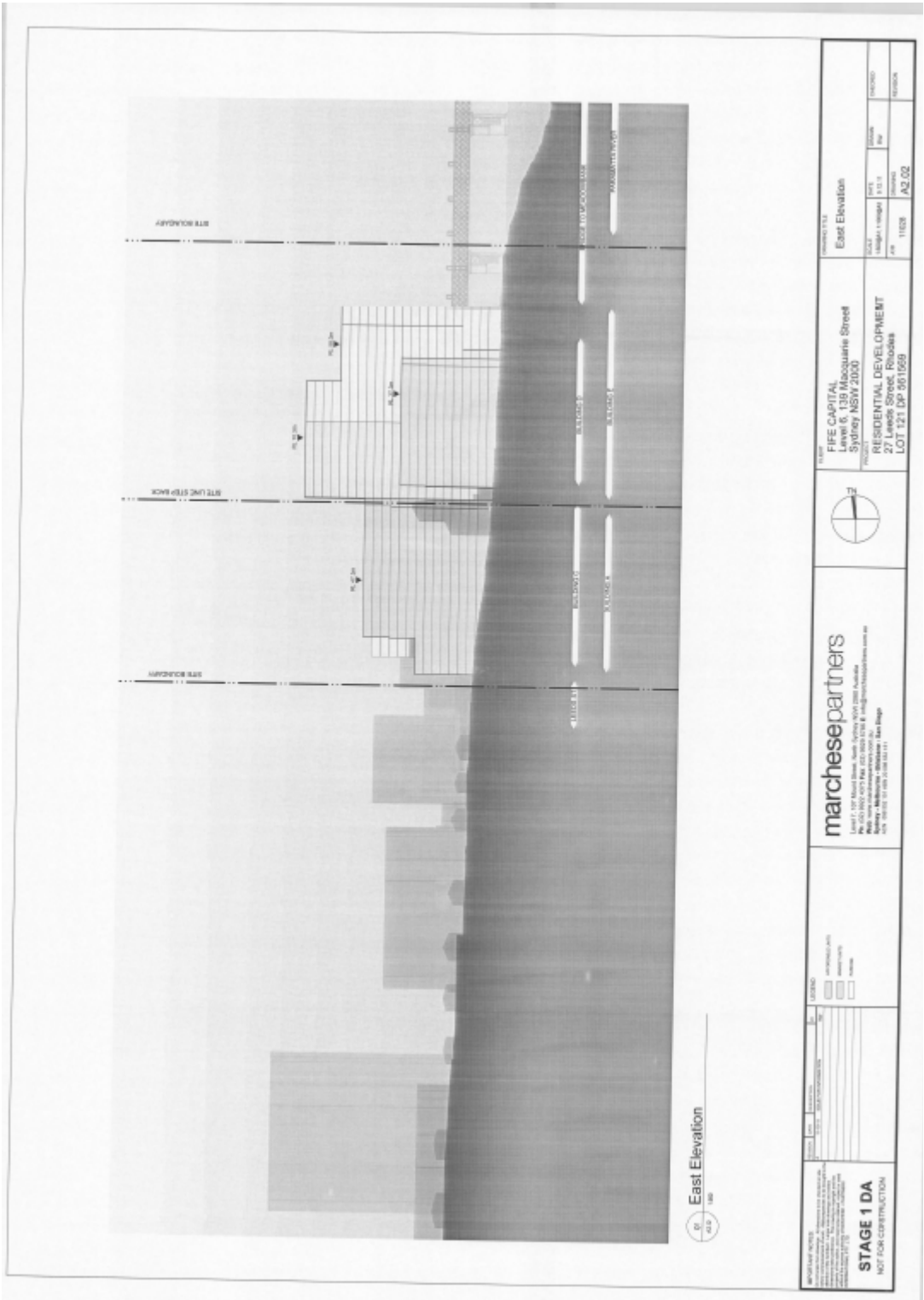
The buildings towards Leeds Street are 7, 12 and 13 storeys in height with the buildings located further into the site towards the foreshore stepping up to 9, 16 and 20 storeys and down to 4 storeys immediately adjacent to the foreshore. The development will be setback 20 metres from the foreshore and this area will be used as a foreshore open space area with public access.

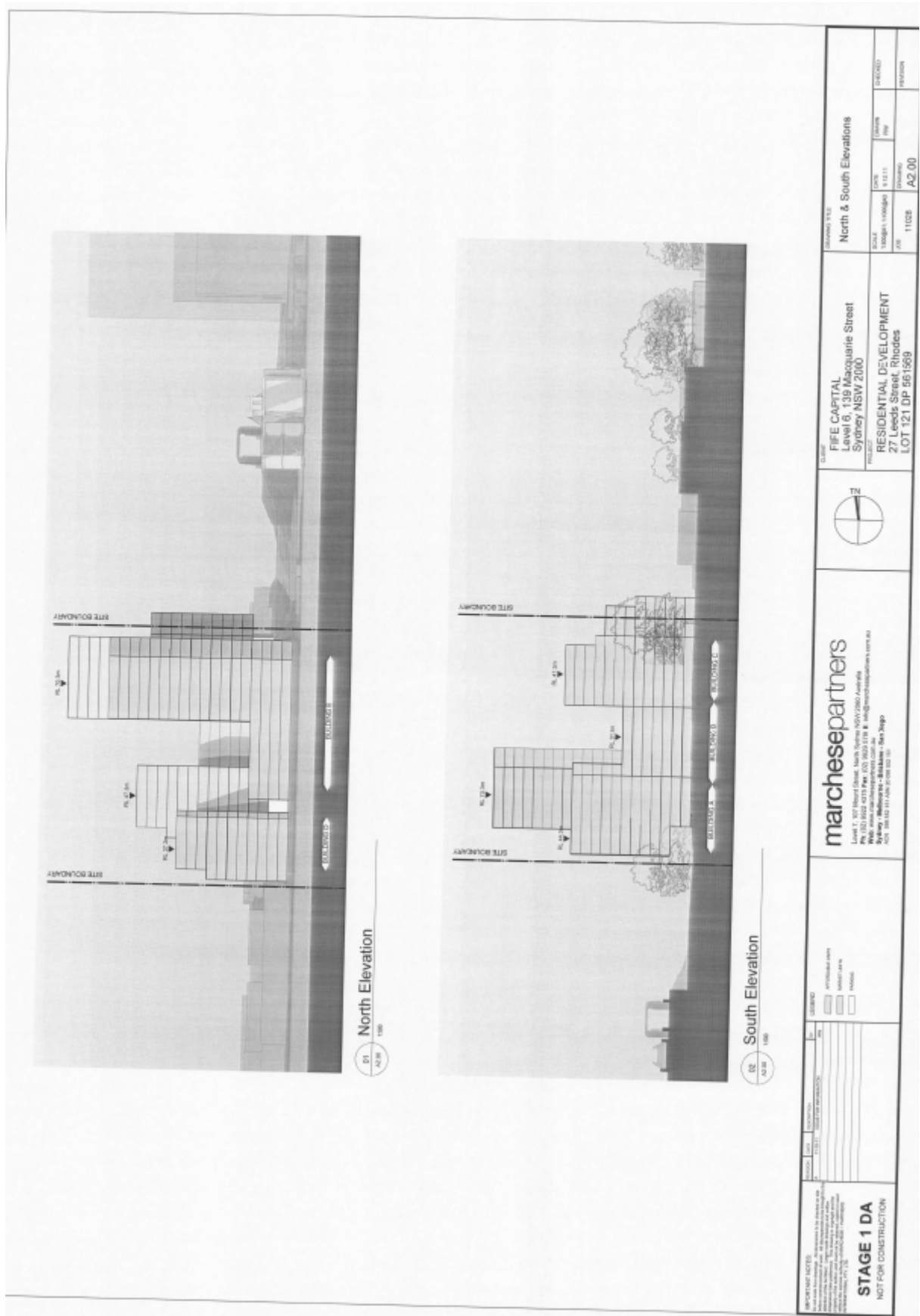
The design includes a cross site pedestrian link and common open space area which will traverse the site from the south-western corner at Leeds Street and Blaxland Road (including an undercroft area in the building to this corner) and terminating at the foreshore. This open space also extends across the site from west (Blaxland Road) to east (adjoining industrial property).

Architectural Plans - Site Plan, Elevations and Sections









The proposed development comprises the following:-

Site Area	10,950m ²
Floor Space Ratio	4:1
Maximum height of buildings	Not stated in exact metres but varies from 4 to 20 storeys (20 storey appears to be approximately 67 metres in height)
Studio Apartments	72 Affordable and 0 Market – Total = 72
One bedroom apartments	76 Affordable and 78 Market – Total = 154
Two bedroom apartments	90 Affordable and 142 Market – Total = 232
Three bedroom apartments	12 Affordable and 31 Market – Total = 43
Total No. of Affordable Units	250 Units
Total No. of Market Housing Units	251 Units
Total number of Resident Car Spaces over three Basement Levels	500
Communal Open Space - Area	6397m ² (including foreshore open space area) plus 690 m ² within the undercroft

The proposal also includes three basement parking levels below ground floor with car parking designated for 500 residential spaces and no visitor parking provided. A total of 40 parking spaces for persons with a disability are included over the 3 basement levels with lift access being provided to all parking levels, however, no detail has been provided on the submitted architectural plans to indicate that accessible units are part of the proposal.

The basement carpark will be accessed via an existing vehicular crossing and driveway area off Leeds Street to the eastern end of the site. It should be noted that this area is affected by an existing right of way which benefits the adjoining property at No. 25 Leeds Street, Rhodes which, according to Council's records, is owned by Graebar Properties Pty Ltd. No evidence has been provided to demonstrate that these owners have been consulted regarding the proposed development and its impacts on the right of way.

No loading/unloading area appears to have been designated within the site for the purpose of removalist vehicles. Such a facility would be advantageous given that 50% of the development is to be utilised as affordable rental housing for a period of 10 years, and that in any case, this is a substantial residential development for which such a facility would be beneficial into the future. However, any such loading access should be discouraged from Leeds Street as this would be likely to create a dangerous traffic situation impeding traffic flow and visibility and any such access from Council's proposed shared pedestrian zone in Blaxland Road would also negatively impact on the use of that area.

In terms of materials and finishes, the conceptual plans submitted with the Staged Development Application do not provide this level of detail.

The estimated cost of the development is \$120,000,000.

3. STATUTORY CONTEXT

3.1 Permissibility

Under the Canada Bay Local Environmental Plan 2008, the site is zoned *IN1 General Industrial*. The proposed residential flat building development is prohibited under this zoning. However, the proposal has been lodged under *Division 5 – Residential Flat Buildings – Social Housing Providers, Public Authorities and Joint Ventures of State Environmental Planning Policy (Affordable Rental Housing) 2009*. Council considers that the proposal does not satisfy the permissibility provisions of this SEPP – see below for further details.

3.2 Environmental Planning Instruments

To satisfy the requirements of Section 79C(1)(a) of the Act, this report includes references to provisions of the Environmental Planning Instruments that substantially govern the carrying out of the project and have been taken into consideration in the submission of the Development Application.

Legislative Provisions

- Environmental Planning & Assessment Act 1979

Environmental Planning Instruments

- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No. 55 – Remediation of Land (and Contaminated Land Management Act 1997)
- 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 (Sydney Harbour Catchment) 2005
- Canada Bay Local Environmental Plan 2008 (see Appendix A for compliance assessment)

Development Control Plans

- City of Canada Bay Development Control Plan 2008 (see Appendix A for compliance assessment – can only be used as a guide)

Other Plans and Policies:

- NSW State Plan 2010
- Sydney Metropolitan Strategy
- Inner West Draft Subregional Strategy
- Canada Bay Local Planning Strategy
- Metropolitan Transport Plan 2010
- Integrating Land Use and Transport Policy package, NSW Dept of Planning 2005
- NSW Planning Guidelines for Walking and Cycling and the NSW Bike Plan

3.3 Primary Controls

3.3.1 Objects of the Environmental Planning & Assessment Act 1979

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

- (a) *to encourage:*
- 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,*
 - the promotion and co-ordination of the orderly and economic use and development of land,*
 - 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 relevance to the assessment of the subject application is consideration of the Objects under Section 5(a), particularly the Objects stipulated under section 5(a) (ii), (iv), (v), (vii), and (viii) are significant factors informing the determination of the subject application. Section 5(b) is also of significance given the absence of a Master plan for this Strategic Foreshore Site.

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 application, along with general matters for consideration prescribed within Section 79C which have been addressed within the body of this report. It is considered that the proposal is not consistent with the Objects of the Act and is therefore not supported.

Due to the absence of a Master plan for the entirety of the Strategic Foreshore Site within which the subject property is located, it cannot be said that the proposed development promotes and co-ordinates the orderly and economic use and development of land, nor has it afforded the opportunity for public consultation with regard to the future development of the Strategic Foreshore Site. The lack of any certainty around the issue of the dedication of the foreshore setback as public open space would lead to the conclusion that the proposal does not adequately address the issue of the provision of land for public purposes. No consideration of the additional demand that a 500 unit development is likely to have on the need for community services and facilities has been provided with the application and the lack of any BASIX assessment demonstrates that the issue of ecologically sustainable development has also not been fully considered by the applicant.

Whilst the concept of providing 250 affordable housing units is commendable, the unit mix proposed would predominantly address the needs of singles and couples with the majority of units provided being studio, 1 bedroom and 2 bedroom apartments and minimal consideration being given to families needing such accommodation as only 12 x 3 bedroom apartments are proposed. Secondly, and as detailed further below, the site is not considered to be suitable for such housing given its remote location from public transport, shopping and other services and the incompatibility with surrounding industrial land uses, and the potential adverse impacts on the low density residential area to the south.

3.3.2 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 have not been comprehensively demonstrated in the documentation submitted for assessment. The environmental impacts of the proposed development are potentially significant and warrant the preparation of a Master plan as required by the Sydney Harbour REP given the subject site is part of a Strategic Foreshore Site identified in this instrument.
- **Precautionary Principle** – Inadequate technical and environmental assessments to support the proposal have been provided by the applicants to clearly demonstrate that the proposal's impacts can be successfully mitigated. Inadequate information has been provided with the application to demonstrate that there are no irreversible or serious environmental impacts arising from the proposal and inadequate assessment has been undertaken of potential contamination of the land, the impact of acid sulphate soil on the site and the proposed development and the geotechnical implications of the proposed design and construction.
- **Inter-Generational Principle** - It is considered that the proposed development does not represent a sustainable use of a site as it is considered that the redevelopment of this site has the potential to cause negative social, economic and environmental impacts and as a result adversely affect the environment to the detriment of future generations.
- **Biodiversity Principle** – The existing natural vegetation on the site is predominantly located around the perimeters of the property. Whilst the vegetation along the foreshore of the site will appear to be retained, the vegetation along the Blaxland Road frontage and adjacent areas will be removed due to the proximity of the proposed development to these trees. No assessment of the existing vegetation on the site has been provided to demonstrate that the site does not contain any threatened or vulnerable species, populations, communities or significant habitats. It is considered that the proposed setbacks to the development, particularly along Blaxland Road are inappropriate and greater setbacks would allow for the retention of more of the existing vegetation. Therefore, it is not possible to state that the development will satisfy the biodiversity principle.
- **Valuation Principle** - The proposal seeks to create new residential development in an existing urban area by maximising reliance on existing infrastructure without clearly demonstrating that this infrastructure is capable of supporting the additional development. The proposal will result in the loss of existing industrial land and employment opportunities thereby not enabling residents to live near work opportunities. The affordable housing component of the proposal does not provide a mix of accommodation.

3.3.3 State Environmental Planning Policy (Affordable Rental Housing) 2009;

Permissibility:

The Staged Development Application has been lodged under Section 83 of the Environmental Planning and Assessment Act 1979 and is permissible by virtue of the provisions of *Division 5 of State Environmental Planning Policy (Affordable Rental Housing) 2009* despite the site being zoned *IN1 General Industrial* and residential flat buildings being prohibited in this zone.

Clause 35 of the SEPP specifies that the application must be made 'by or on behalf of' a social housing provider. The application and supporting documentation make some references to the Proponent of the development as St George Community Housing, however, there does not appear to be any documentation from this entity clearly detailing its actual role in the procurement of the consent, financing, demolition, construction and delivery of the affordable housing component upon completion of the development. A letter has been submitted from St George Community Housing (SGCH) and this refers to a Memorandum of Understanding which confirms the roles of the parties to the proposal with SGCH stating that they are responsible for securing affordable housing funding only and the owners are responsible for managing the approval process. This does not demonstrate that the portion of the development involving the 250 affordable housing units will be carried out by or on

behalf of SGCH, and the remaining 251 units will not involve SGCH in any way. That part of the proposed development will be carried out by Fife Capital. That part of the development is then not development to which the Division would apply and therefore would not be permissible on the site.

It is also submitted that an affordable housing development of the size and scale proposed warrants much more detail in terms of its management and the support services that will need to be provided.

Division 5 of the Affordable Rental Housing SEPP is designed to encourage the provision of housing for very low income, low income or moderate income households in locations that are easily accessible to all tenants within such housing being available for rent over a 10 year period. Council notes that the proposal fails to meet two of the three Accessible Area criteria (see definition below) contained in the SEPP and only just satisfies the remaining criteria.

accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the [Passenger Transport Act 1990](#)) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

Council has measured 'walking distance' in accordance with the definition contained in the SEPP, ie., **walking distance** means the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings, and has established that the Rhodes Railway station is 810 metres from the south-western corner of the property to the railway station entrance using a pedestrian path in accordance with the above definition of walking distance, the Meadowbank ferry wharf is over 1000 metres from the same commencement point, and there is only one bus service (State Transit Route No. 458) that meets the walking distance criteria and this only just meets the frequency test contained in the above definition of Accessible Area.

In addition to the above, the site is located over 1.0 kilometres from the Rhodes Shopping Centre and its health care and fitness facilities, supermarkets, specialty stores, and entertainment. Given the purpose of the Affordable Housing SEPP, it is highly likely that residents of such rental housing would derive from socio-economic backgrounds and circumstances whereby access to a motor vehicle may be limited and reliance on such facilities being within easy walking distance would be high.

Compatibility with Surrounding Land Uses

Clause 36(2)(a) of the SEPP provides that consent cannot be granted to development to which Division 5 applies unless the Director General has issued a Site Compatibility Certificate certifying that the development is compatible with the surrounding land uses. Clause 37(6) of the SEPP states as follows:-

- (6) *The Director-General must not issue a certificate unless the Director-General:*
 - (a) *has taken into account any comments received from the council within 14 days after the application for the certificate was made, and*
 - (b) *is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development,*
 - (ii) *the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Director-General, are likely to be the preferred future uses of that land,*
 - (iii) *the services and infrastructure that are or will be available to meet the demands arising from the development, and*
 - (c) *is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.*

Clause 36(3) of the SEPP also provides that a consent authority can refuse consent to a development proposal under Division 5 by reference to its own assessment of the compatibility of the development with surrounding land uses or having regard to any other matter in determining a development application under this Division.

Council is of the opinion that the development is incompatible with the surrounding land uses and does not represent the preferred use of the land having regard to the criteria specified in Clause 37 above for the following reasons:-

- The subject land is zoned *IN1 General Industrial* under the Canada Bay LEP 2008. Council's records indicate that the last approval on the site was for manufacturing under Development Application No. 92/2003. The proposed high rise residential land use is incompatible with the industrial uses contemplated under the current zoning and the approved use of the subject site and surrounding sites.
- The land to the immediate east comprises premises used for industrial purposes. The proposed high rise residential land use up to 20 storeys in height and the proposed density of the development is incompatible with the approved uses on the adjoining land to the east.
- The land to the south comprises one and two storey detached dwellings in a R2 Low Density Residential zone. The proposed high rise residential land use up to 20 storeys and with an FSR of 4:1 is incompatible with the existing and approved use of land to the immediate south.
- The proposal seeks to replace industrial uses on the land with residential development. As established by the draft Inner West Subregional Strategy, Canada Bay Local Planning Strategy and the Canada Bay Local Environmental Plan 2008, the preferred future use of the subject land is for industrial purposes.
- The application proposes a residential development ranging in height from 4 to 20 storeys. The immediate surrounding built form is predominantly characterised by one and two storey detached dwellings and low scale one and two storey industrial buildings. It is considered that the development has a significant impact and presents as excessively bulky and excessively scaled in both its micro and macro context. There is no precedent for such a scale of development on the eastern side of the railway line in Rhodes.
- The development is out of character with its context, notwithstanding development on the western side of the railway in the Rhodes Peninsula. Whilst the Rhodes West Master plan has resulted in high rise developments on the western side of the railway line, there is no justification for assuming that the same planning decisions and outcomes could or should be adopted for the area on the eastern side of the railway line. Secondly, and as supported by the Foreshores and Waterways Committee, the actual context of the site should be taken as the area east of the railway line between John Whitton and Ryde bridges and Meadowbank on the northern side of the river and not the Rhodes West side. This correct contextual setting is dominated by medium density residential flat buildings in the vicinity of 8 storeys, the existing one and two storey dwellings to the south and east of the site, and the existing one and two storey industrial buildings.
- The development does not provide for community facilities which will be required by the future residents or contribute to the supplementation of existing or future planned services.

Currency and Validity of the Site Compatibility Certificate:

Concern is also raised with the currency and validity of the Site Compatibility Certificate given that it was issued in September 2010 and the proposed development has been significantly altered from that originally considered by the Minister for Planning when issuing the Site Compatibility Certificate. The current proposal differs from the original SCC submission as follows:-

- The original proposal comprised three (3) main building forms ranging in height from 7 storeys to 9, 12 and 16 storeys and these were contained predominantly to the eastern side boundary and the Leeds Street frontage with a large communal open space area to the south-western part of the site – the current proposal now comprises three (3) much more extensive building

footprints ranging in height from 4 storeys to 7, 9, 12, 13, 16 and 20 storeys around the perimeter of the site with a reduced communal open space area.

- The original proposal involved a floor space ratio of 3.55:1 – the current proposal involves an FSR of 4:1.
- The original proposal contained 500 units comprising 142 x 1 bed/studio, 95 x 2 bed and 14 x 3 bed units (251) as Affordable Rental Housing and 70 x 1 bed/studio, 144 x 2 bed and 35 x 3 bed units (249) as Market Housing – the current proposal contains 501 units comprising 72 studio, 76 x 1 bed, 90 x 2 bed and 13 x 3 bed units (250) as Affordable Rental Housing and 78 x 1 bed, 142 x 2 bed and 31 x 3 bed units (251) as Market Housing
- Approximately 20,000sqm of public open space (which partly included a proposed parkland to be established at the northern end of Blaxland Road which did not entirely form part of the site but included some Council-owned land) – the current proposal provides only 6397m² (including foreshore open space area) plus 690 m² within the undercroft the applicant has not stated how this area will be accessible to the general public given that it will be predominantly contained within the site which will be a privately owned residential housing development.
- Scope for a ferry wharf to be established at the north-eastern corner of the foreshore side of the site was included in the original submission – no such feature is proposed under the current proposal.

Secondly, Council's position is that the Site Compatibility Certificate is invalid as the application for that Certificate was not made by or on behalf of the owner of the land and nor was the owner's consent to the making of that application provided to the Director General.

Requirements of the Site Compatibility Certificate:

The Site Compatibility Certificate issued in September 2010 included the following requirements in accordance with Clause 37(7) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*:-

1. *The development is to be reconfigured to ensure that the amenity of surrounding residential areas is not adversely affected. Matters to be given particular attention include overshadowing and overlooking. Details of which should be included in a masterplan and any subsequent development application.*
2. *The applicant is to investigate the introduction of a Green Travel Plan and reducing on site parking, details of which should be included in a masterplan and any subsequent development application.*
3. *The applicant is to investigate extending Blaxland Road to the waterfront, details of which should be included in a masterplan and any subsequent development application.*
4. *Public foreshore access should be provided on site, details of which should be included in a masterplan and any subsequent development application.*
5. *The applicant is required to demonstrate that the relevant objectives of the Affordable Rental Housing SEPP have been met, as part of the masterplan and any subsequent development application.*
6. *The applicant is required to include a thorough contextual analysis in the masterplan and the development application, demonstrating that the development is compatible with its surrounds.*

With respect to Point No. 1 above in relation to overlooking and overshadowing, the current Staged DA proposal creates a greater overshadowing and overlooking impact on the surrounding residential area as the proposed buildings are greater in height along the Leeds Street frontage. The original concept submitted for the Site Compatibility Certificate (SCC) restricted the building across the Leeds Street frontage to a single built form of 7 storeys. Whilst it would appear that this building would result in potential overlooking issues resulting from balconies and windows across the Leeds Street façade, and that this would also be the case with the current proposal, the current submitted design includes 12 and 13 storey elements to the western and eastern ends of this built form which increases the number of units that would have the potential to overlook the one and two storey residential dwellings and their associated private open space areas immediately to the south of the site.

Additionally, a comparison of the shadow diagrams prepared for the original SCC submission and the shadow diagrams prepared for the current Staged DA proposal clearly demonstrates that the overshadowing impact of the current proposal on the residential properties to the south of the site is significantly greater than the original SCC proposal. Secondly, the shadow analysis that has been provided makes no comment on, and/or assessment of, the potential overshadowing impacts on the

remainder of the Strategic Foreshore Site being No.'s 1 – 25 Leeds Street, Rhodes. Had a proper Master plan or DCP process been undertaken for the site as required by the Sydney Harbour SREP, it is envisaged that issues such as establishing appropriate height limits, building footprints and envelopes etc would have been fully investigated to ensure that overshadowing impacts were minimised and co-ordinated for the entirety of the Strategic Foreshore Site and the area surrounding it, as well as achieving the full range of urban design principles.

In relation to Point No. 2, a Green Travel Plan, has been submitted with the current Staged DA and this has been reviewed by the SRDAC and Council's Traffic Engineering staff.

With regard Point No. 3 - extension of Blaxland Road, this matter has already been addressed by Council through the proposed redesign and improvements to this section of Blaxland Road to provide a new car and trailer parking area, a new boat ramp at the foreshore end of this street, and the establishment of a shared pedestrian/vehicular zone in this area. These works are in the process of being designed by Council and are part of Council's program of improvements for the area but do not contemplate high density residential development on the eastern flank of the area to be upgraded.

Point No. 4 has been partially addressed through the proposed creation of a 20 metre setback from the foreshore boundary of the site and the use of this area as a publicly accessible open space area, however, as previously mentioned, no details have been provided to Council regarding the dedication of this area as public open space to Council. In the absence of a master plan for the entirety of the Strategic Foreshore Site, the proposed open space area will terminate at the adjoining existing industrial property immediately to the east of the subject site with no foreseeable potential to extend it.

In relation to Point No. 5 above, please see the discussion above on the Affordable Rental Housing SEPP.

The 'thorough' contextual analysis referred to in Point No. 6 above has not been carried out satisfactorily and not to a standard expected within a Master plan. A brief statement is contained in the Statement of Environmental Effects describing the locality immediately surrounding the subject site and a paragraph describing the regional context. This is followed by a one page statement on the 'vision' for the proposal and the 'design approach' and a dot point analysis of the positive and negative outcomes of 5 different options for the site with the preferred option having no negative outcomes. There is more analysis contained in the architect's Urban Design Statement for the development however this relies upon the Rhodes West Master planned area to justify the proposed building heights. As noted by both Council and the Foreshores and Waterways Committee (see discussion of the Committee's comments below) this is considered to be the incorrect context for the site.

Council does not consider this to be a thorough or adequate contextual analysis of the site, the surrounding area, the potential impacts of the proposed development on both, and the wider context of the locality surrounding this Strategic Foreshore Site. Indeed, even based on the analysis that has been submitted, it should be noted that of the 5 Options considered, Option A would be the site layout design that would be most likely to resolve issues of inappropriate bulk, height and scale, overshadowing, overlooking, compliance with SEPP 65 and the RFDC and would also enable views and vistas to and from the waterway and foreshore to be established. However, Option E is the one that has been submitted to Council.

For the reasons specified above and the inconsistency with the plans and policies as listed below, Council does not consider that the proposed development is suitable for the site which is a head of consideration for development under Section 79C of the Environmental Planning and Assessment Act 1979. Council does not consider that the proposed development is compatible with surrounding land uses and recommends that the proposal be refused in accordance with this assessment as permitted by Clause 36(3) of the Affordable Rental Housing SEPP.

3.3.4 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;

The site is identified as part of a Strategic Foreshore Site under Part 4 of the SREP. These sites are considered to be strategically significant in terms of their prominent location, size and/or potential for redevelopment. Clauses 20 – 27 of the SREP set out the Matters for Consideration which must be taken into account by consent authorities before development consent under Part 4 is issued. These matters include biodiversity, ecology and environment protection, public access to, and use of, foreshores and waterways, maintenance of a working harbour, interrelationship of waterway and

foreshore uses, foreshore and waterways scenic quality, maintenance, protection and enhancement of views, and boat storage facilities.

The submitted application does not address Clauses 20 – 27 and Council does not consider that the provisions of these Clauses have been satisfied through the design of the proposed development. The proposed development will not preserve the character and functions of a working harbour, does not promote the use of the waterway including by passive recreation craft, and fails to enhance the scenic quality of the foreshore and waterway as its scale, form, design and siting will adversely impact on these areas. The proposal will not protect, enhance and maintain existing views to and from the waterway, and no public boat storage facilities are proposed.

Clauses 40 and 41 of this Policy sets out the requirements for the preparation of Master plans for Strategic Foreshore Sites identified in the Policy as follows:-

41 Requirement for master plans

(1) Development consent must not be granted for the carrying out of development on a strategic foreshore site unless:

(a) there is a master plan for the site, and

(b) the consent authority has taken the master plan into consideration.

(2) The Minister may waive compliance with the requirements of subclause (1):

(a) if satisfied that preparation of a master plan is unnecessary because of:

(i) the nature of the proposed development, or

(ii) the fact that the proposed development will affect only a small proportion of the site, or

(iii) the adequacy of other planning controls applying to the proposed development, or

(b) for such other reason as the Minister considers sufficient,

so long as the Minister is satisfied that the proposed development will not compromise the application of the planning principles set out in clauses 13, 14 and 15.

(3) If the Minister is not the consent authority, the Minister is to notify the relevant consent authority, in writing, of a waiver of the requirements of subclause (1).

(4) A master plan does not have to be prepared for the City Foreshores Area or for Garden Island, as shown on the Strategic Foreshore Sites Map, unless the Minister so directs.

(5) This clause does not apply to minor development specified in Schedule 3.

Note: The Environmental Planning and Assessment Regulation 2000 was amended by the Environmental Planning and Assessment Amendment Act 2005 concerning the need to prepare master plans. Clause 95 of Schedule 6 – Savings – Transitional and Other Provisions of the Environmental Planning and Assessment Act 1979 applies to any provision of an environmental planning instrument that is in force on the commencement of the clause that requires a master plan to be prepared prior to the issue of development consent, and states that such a provision is to be construed to mean a Development Control Plan instead.

On 9 April 2010, the Department of Planning received a request from the applicants, Mecone Pty Ltd, for the Minister of Planning to waive the requirement for a master plan for the proposal. Following consideration of the request, the Minister advised Council in a letter dated 20 October 2010 that the request had been denied for the following reasons:-

- 1. The nature of the proposed development is such that it would be inconsistent with the scale and type of development in the remainder of the employment land precinct;*
- 2. The proposed development would affect a large part of the strategic foreshore site;*
- 3. In the absence of a master plan, there are insufficient planning controls to guide the development of the site in accordance with the proposal submitted under the Affordable Rental Housing SEPP 2009;*
- 4. Insufficient information has been submitted to the Minister to consider any other reason that does not compromise the application of the planning principles set out in Clauses 13, 14 and 15 of the SREP 2005.*

Despite the Minister's decision of 20 October 2010, the applicant again sought a waiver of the requirement for a master plan from the Minister in November 2011. In a letter to the applicant dated 21 November 2011, the Executive Director of Planning Operations for the Department of Planning and Infrastructure advised the applicant as follows:-

*"The information you provided is considered to be insufficient to support a masterplan waiver. However, I understand that you plan to lodge a staged Development Application (DA) for the development certified under the Site Compatibility Certificate. In this instance, Section 83C of the Environmental Planning and Assessment Act 1979 allows for the masterplan requirement to be dispensed with **so long as** the staged DA addresses the requirements listed under Clause 46 of the Sydney Harbour Catchment REP 2005.*

A staged DA can therefore be lodged directly with the consent authority without the need for the Minister to waive the masterplan requirements under Clause 45(2) of the Harbour REP, provided that the matters identified in the DA respond to the items listed under Clause 46 of the Harbour REP. Please be mindful that the staged DA needs to fully address the matters listed under Clause 46 of the Harbour REP to qualify."

The current application has been lodged as a Staged DA under the provisions of Section 83 of the Environmental Planning and Assessment Act 1979 which states, in part, as follows:-

83B Staged development applications

- (1) For the purposes of this Act, a **staged development application** is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may set out detailed proposals for the first stage of development.*
- (2) A development application is not to be treated as a staged development application unless the applicant requests it to be treated as a staged development application.*
- (3) If consent is granted on the determination of a staged development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*
 - (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
 - (b) the staged development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*
- (4) The terms of a consent granted on the determination of a staged development application are to reflect the operation of subsection (3).*

83C Staged development applications as alternative to DCP required by environmental planning instruments

- (1) An environmental planning instrument cannot require the making of a staged development application before development is carried out.*
- (2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a staged development application in respect of that land.*
- (3) Any such staged development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.*

Section 83C(3) above calls up the provisions of Clause 46 of the Sydney Harbour REP in this particular case which states as follows:-

46 Preparation of master plans

- (1) A draft master plan may be prepared by or on behalf of the owner or lessee of the land concerned, the relevant council or the Director-General.*
- (2) A draft master plan is to be prepared following consultation with the appropriate authority and is to illustrate and explain, where appropriate, proposals for the following:*
 - (a) design principles drawn from an analysis of the site and its context,*
 - (b) phasing of development,*
 - (c) distribution of land uses including foreshore public access and open space,*
 - (d) pedestrian, cycle and motor vehicle access and circulation networks,*
 - (e) parking provision,*
 - (f) (Repealed)*
 - (g) infrastructure provision,*
 - (h) building envelopes and built form controls,*

- (i) *heritage conservation (including the protection of archaeological relics and places, sites and objects of Aboriginal heritage significance), implementing the guidelines set out in any applicable conservation policy or conservation management plan,*
- (j) *remediation of the site,*
- (k) *provision of public facilities,*
- (l) *provision of open space, its function and landscaping,*
- (m) *the impact on any adjoining land that is reserved under the [National Parks and Wildlife Act 1974](#),*
- (n) *protection and enhancement of the natural assets of the site and adjoining land,*
- (o) *protection and enhancement of the waterway (including water quality) and any aquatic vegetation on or adjoining the site (such as seagrass, saltmarsh, mangroves and algal communities).*
- (3) *The requirement for consultation under subclause (2) does not apply if the draft master plan is prepared by or on behalf of the relevant council or the Director-General.*
- (4) *If a draft master plan is prepared by or on behalf of the relevant council or the Director-General, the relevant council or the Director-General is required to consult with the owner or lessee of the land concerned.*

The proposed development is not a Staged Development with the meaning of Section 83 of the Environmental Planning and Assessment Act, 1979, as the proposed development has not satisfied the criteria for such applications as listed in Section 83B of the Act and therefore the provisions of Section 83C (2) and (3) of the Act cannot be relied upon to overcome the requirement for the submission of a Master plan (DCP). Council holds this position for the following reasons:-

- The architectural drawings lodged with the proposal are titled 'Concept Drawings' although the DA as lodged seeks consent for Stage 1 of the development without making any reference to a 'concept'. Secondly, the Statement of Environmental Effects (SEE) at Appendix 7 page 4 states that the DA is for a 'concept' for the site which will be 'followed by the detailed Stage 2 Development Application', however, there is no information in the DA or its accompanying documents of any Stage 2 proposal. This is in conflict with the requirements and provisions of Section 83B(1) and (3) above and indeed the DA form nor the SEE make any reference to the provisions of Section 83B; and
- For all practical purposes, the DA as lodged seeks consent not as a staged application or as a concept proposal, but for consent in respect of the development identified in the SEE and the architectural drawings with there being no staging identified in the DA or its accompanying documents. For example, 3 basement levels and four (4) buildings varying in height from 4 – 20 storeys are proposed and the DA seeks consent for all the entirety of the basement levels and all 4 buildings and not for the separate staging of the basement levels and each of the buildings by way of subsequent DAs; and
- The Quantity Surveyor's Report in the SEE provides a cost summary of the estimated cost of works for the entire development identified in the SEE and the DA fees have been paid based on the QS Report with there being no indication of any staging or phasing of the development. Secondly, the Landscape Design Report at page 39 of the SEE does not refer to any staging but does refer to a Master Plan; and

Council is also concerned with the proposition, and does not support the use of, the provisions for Staged Development Applications under Section 83 of the Environmental Planning and Assessment Act 1979 as a means of overcoming the requirement for a Master plan under Clause 46 for the following reasons:-

- The subject development site at No. 27 Leeds is only part of the Strategic Foreshore Site identified in the SREP, and a Master plan (or Development Control Plan) should be carried out for the entirety of the Strategic Foreshore Site before any development applications are considered for the area. The preparation of a Master plan would allow for consultation with Council prior to appropriate development controls for the area being formulated and implemented, or indeed allow Council to prepare the Master plan. The Minister obviously considered that a Master plan was necessary and appropriate in the circumstances (see Minister's reasons for not waiving the Master plan requirement on page 19 above) and no justification has been submitted to Council to clearly demonstrate why a Master plan is no longer appropriate. The application as lodged is therefore contrary to Schedule 2 of the Site Compatibility Certificate in that it has not been submitted with a Master plan; and

- The Minister for Planning and Infrastructure has not directed the consent authority for this development that the Master plan (DCP) may be prepared for part only of the Strategic Foreshore Site; and
- Section 83C (2) of the Environmental Planning and Assessment Act 1979 states that the making and approval of a Staged Development Application **may** satisfy the requirement for the preparation of a DCP (Master plan) on the land. This is considered to be a discretionary power and Council is not satisfied that the Staged Development Application as submitted satisfies the requirements contained in 83C (3) in that it does not adequately address the information required under Clause 46 of the SREP. Council also does not consider that a satisfactory assessment of the proposed development has been carried out against the planning principles set out in Clauses 13, 14 and 15 of the SREP, particularly in relation to public access to the foreshore, heritage conservation and retaining foreshore land for working harbour uses; and
- Council considers that the terms of Clause 83C (2) mean that the above requirements should apply to the entirety of the Strategic Foreshore Site identified in the SREP being No.'s 1 - 27 Leeds Street inclusive (and including Uhrs Point Reserve at the eastern end of Leeds Street); and
- A site-based rather than a precinct-based approach to the Leeds Street area pre-empts Council's proper strategic consideration of the appropriate land use mix and urban form for this Strategic Foreshore Site.

In addition to the above, and regardless of the provisions requiring a Master plan, it is considered that the applicants have not fully addressed the requirements of Clause 46 of the Sydney Harbour SREP as advised by the Department in its letter of dated 21 November 2011 (see page 20 above) for the following reasons:-

- No details have been provided to Council to illustrate and explain the phasing of the proposed development; and
- Whilst the proposal includes a foreshore area and open space within the site, no details have been provided on how these areas will be made legally available for public access, ie., dedication to Council as public open space etc; and
- Inadequate information has been provided with the application to clearly demonstrate that existing infrastructure will not be adversely affected by the proposal and what additional infrastructure needs to be provided to accommodate the additional 501 units proposed; and
- Although the application has included an Urban Design Statement and an assessment of the proposal against SEPP 65, these analyses have not been used to formulate appropriate building envelopes and built form controls for the ongoing development of the site or the remainder of Strategic Foreshore Site; and
- The only public facilities which appear to have been addressed in any detail in the application is the provision of open space. The concept of provision for a future ferry wharf or any other community or public facilities as part of the proposed redevelopment of the site have been deleted from the original proposal that formed the basis of the Site Compatibility Certificate submission; and
- Inadequate assessment of potential contamination issues affecting the site has been undertaken and therefore no certainty with respect to remediation requirements for the site has been provided (see 3.3.5 below); and
- No assessment of the potential impacts of the proposed development on the waterway has been undertaken, particularly in relation to water quality and the potential impacts on any aquatic vegetation adjoining the site to inform measures for the protection and enhancement of the waterway; and

- The proposal is likely to have an adverse impact on the heritage significance of the John Whitton Bridge which is adjacent to the property on its western side and which is listed as a heritage item on the State Heritage Register and is listed as a heritage item in both the Canada Bay and Ryde Local Environmental Plans. The proposal will block important views of this bridge from the public domain and the scale of the development would overwhelm the bridge.
- Inadequate assessment of the impact of the proposed development on the existing road network has been undertaken and no consideration has been given to the proposal to signalise the intersection of Leeds Street and Blaxland Road, the relocation of the existing substation on the site, and the impact of these works on the site and cycleway and pedestrian connections along Leeds Street.

In summary, Part 4 of SREP (Sydney Harbour Catchment) 2005 requires a master plan (now a Development Control Plan) to be prepared prior to development occurring on strategic foreshore sites. Leeds Street, Rhodes is identified on Sheet 19 of the SREP. The application for the development of only one site on the Leeds Street peninsula is inconsistent with this requirement.

Whilst the requirement for a master plan may be waived by the Minister, the Minister has refused to do so. Waiving the requirement for a master plan and developing the site in isolation is the antithesis of what SREP for the Sydney Harbour Catchment is trying to achieve. The purpose of requiring of a master plan for the entire precinct is to ensure that a holistic approach is applied to achieve an integrated urban design solution for entire precincts. This includes open space provision and built form responses that transcend boundaries. Applying site specific responses to different parcels of land will result in ad-hoc outcomes that compromise the quality of what has been identified as a strategic foreshore site. The Minister has acknowledged this through the reasons set out in the Department's letter of 20 October 2010 (see page 19 of this report).

The resulting situation is a complex web of planning controls under a number of instruments which are inconsistent. There is clearly a need for a master plan to be developed for the entirety of the Leeds Street Strategic Foreshore Site as part of a draft LEP and subject to a proper planning process including community consultation. Approval of the subject DA would prevent this process from being undertaken in the future by allowing inappropriate development in advance of such a process.

3.3.5 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.

The site has been used as an industrial property since at least 1967 and approved uses on the site have included manufacture of power distribution and electrical equipment and heavy duty magnetic brakes, timber milling and timber yard, fabrication of metal grates and covers, and manufacture of bedding.

The applicant submitted a Stage 1 Contamination Assessment by Molino Stewart Pty Ltd and this report further identifies that the site is affected by fill used for foreshore land reclamation coming from unknown sources, presence of a boiler during the electrical equipment production use and potential impacts from an electrical transformer on the boundary of the site.

The NSW Environment Protection Authority has reviewed the Contamination Assessment and has recommended that a Stage 2 Site Investigation be carried out and that the Stage 2 report be reviewed by a Contaminated Site Auditor accredited by the EPA. Council's Environmental Officers also reviewed the Phase 1 report and requested that a Phase 2 report be submitted for consideration prior to the development application proceeding any further.

The applicant was advised of the comments of the EPA and Council's Environmental Health Officers via letter dated 23 March 2012. To date, no response has been received from the applicant with respect to providing a Stage 2 Investigation report. Refer to section 4.4 - Internal Referrals for further details. It should be noted that a Stage 1 and Stage 2 Investigation can be a minimum requirement for a potentially contaminated site in circumstances where no development is being proposed but the land is being considered as part of a rezoning proposal. Therefore, the applicant's position that this level of

investigation is not warranted due to the conceptual nature of the proposed development and its status as a Staged Development Application is not supported. The issue of contamination and remediation is of greater significance given the provisions of Clause 46 of the Sydney Harbour REP as discussed previously in this report.

3.3.6 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 Marchese Partners Architects, signed by Steve Zappia, 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).

An assessment of the proposal against the Rules of Thumb contained within the '*Residential Flat Design Code*' is provided below within Appendix A to this report. It is considered that the proposal is not consistent with the design quality principles and does not satisfy some of the provisions of the Residential Flat Design Code and is therefore not supported.

Council has reviewed the application and is not satisfied that the proposed development meets the following Design Principles in SEPP 65:

Principle 1: Context This principle states that new buildings should contribute to the existing desirable elements of an area or desired future character of an area as identified in planning and design policies for areas undergoing transition. The draft Inner West Strategy, Canada Bay Local Planning Strategy and the Canada Bay LEP identify the locality as being industrial. The proposal for high rise residential development up to 20 storeys does not respond to this context given that the existing character comprises one and two storey industrial buildings and one and two storey detached dwellings beyond the industrial area.

Principle 2: Scale Establishing an appropriate scale requires a considered response to the scale of existing development. Surrounding development comprises one to two storey dwelling houses and one to two storey industrial buildings. The proposed development with heights ranging from 4 to 20 storeys does not respond to the scale of the surrounding/existing development.

Principle 4: Density This principle states that appropriate densities are sustainable and consistent with existing and/or future desired density for an area. Sustainable densities should respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality. These issues are matters that would be more appropriately identified and established through the Masterplan process and in the absence of such a detailed assessment of the Strategic Foreshore Site, it is considered that the proposed density of 4:1 is not sustainable and is not consistent with the existing area or the future desired character of the area.

Principle 6: Landscape This principle states that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. The communal open space area in the central core of the site will be in shadow during the majority of the day in winter and full sun during the hottest part of the day in summer with minimal provision for shade. A significant amount of existing vegetation from the Blaxland Road frontage will be removed and the setback of the building to this boundary will not enable any vegetative screening to be provided along this part of the site resulting in a detrimental impact on the streetscape and the adjoining John Whitton Bridge and proposed shared pedestrian/traffic zone in Blaxland Road. The bulk and scale of the buildings adjoining the proposed foreshore open space zone will have a detrimental effect on how this area is viewed and experienced – both by waterway users, residents on the opposite side of the site in Meadowbank and visitors/residents using this foreshore open space area.

Principle 7: Amenity This principle states that good amenity is provided through appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all ages and degree of mobility. The apartment mix is not supported - of the 250 affordable housing units proposed, 148 are studios and 1 bedroom units, 90 are 2 bedroom units and only 12 are 3 bedroom units. All of the affordable housing units are located towards the Leeds Street end of the site (away from the foreshore) and of the 250 units, 106 are single aspect apartments facing south or west only with poor cross-ventilation and solar access. The majority of these are studio or 1 bedroom apartments between 39sqm and 52sqm in floor area. The separation distances between buildings and their balconies are also inadequate and will result in visual and acoustic privacy issues. Minimal storage areas appear to have been provided and many of the units will have inadequate solar access and cross ventilation.

Principle 9: Social dimensions and housing affordability New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs. Over 56% of the affordable housing proposed comprises 1 bedroom/studio apartments. Only 5% of the affordable housing proposed comprises 3 bedroom apartments. The proposed development does not provide a satisfactory mix of housing types or cater for different budgets or housing needs. The remote location of the site to a variety of public transport services and shopping/medical/entertainment facilities will also adversely affect the economic effectiveness of the development as an affordable housing development.

For the reasons outlined above, the proposal fails to satisfy the abovementioned Design Principles in SEPP 65 and is not supported.

3.3.7 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.

No BASIX Certificate has been submitted to Council with the Staged Development Application. Council had previously raised this issue with the applicant in its letter of 11 January 2012. The applicant has responded by advising that it is their position that as the submitted floor plans are only indicative and that the current application is a Staged DA, it is not possible to provide a BASIX Certificate and that such certification will be provided with subsequent detailed applications.

State Environmental Planning Policy (Building Sustainability Index: BASIX) does not include any provisions that would exclude a Staged Development Application from the requirement for a BASIX Certificate. Whilst it is acknowledged that the level of detail that would be able to be provided in such a Certificate would not be as detailed, it is considered that sufficient architectural detail has been provided on the submitted plans to enable a BASIX assessment to be undertaken. Furthermore, it is considered that even at the conceptual stage of this first phase of the Staged Development Application process, it should be demonstrated to both Council and the JRPP that the building can achieve water and energy efficient targets for the proposed development.

3.3.8 State Environmental Planning Policy (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by providing for consultation with relevant public Authorities about certain development during the assessment process or prior to the development commencing.

The proposal triggers consideration by this policy due to the number of residential dwellings proposed and required referral of the proposed development to the Sydney Regional Development Advisory Committee (SRDAC) of NSW Roads and Maritime. The SRDAC considered the Staged DA at its meeting of 14 March 2012. Please see Section 4.2.1 of this report below for full details of the SRDAC's comments on the proposal.

3.4 Plans and Policies

3.4.1 NSW State Plan 2021

The NSW State Plan 2021 aims to achieve quality services in the areas of transport, health, family and community services, education and police and justice. The Plan contains targets which are relevant to the current proposal as follows:-

Target	Comment
Improve Housing Affordability and Availability	Whilst the proposal comprises 50% affordable rental housing for a period of 10 years, the design, layout and unit mix is considered to be inappropriate and the building layout favours the market housing component of the development which is prohibited in the industrial zoning that applies to the site
Grow employment by an average of 1.25% per year to 2020	Whilst the construction of the development will result in shorter term jobs, it will also result in the loss of an existing industrial site which Council and State Government policies have identified as being retained as a longer term employment generator, therefore, the proposal will decrease employment
Improve Use of Public Transport and Increase Walking and Cycling	The site is located over 800 metres walking distance from the Rhodes railway station and over a kilometre from Meadowbank ferry wharf and the shopping and other essential facilities at the Rhodes Waterside Shopping Centre. The frequency of the bus service which is within walking distance of the site only just satisfies the criteria for the Affordable Housing SEPP. Whilst there are several nearby reserves which are readily accessible and provide opportunities for walking and cycling, it is considered that the site is too remote from public transport and other necessary facilities to encourage walking and reduce reliance on cars.
Grow Business Investment by an average of 4% per year	The proposal does not include any plans for maintaining and investing in infrastructure. The proposal will place additional pressure on existing infrastructure with minimal benefit or improvements to infrastructure being proposed other than foreshore open space and there is no dedication of this area to Council as public open space. The proposal will result in the loss of an existing industrial site thereby decreasing long-term investment in business and the number of long-term and permanent jobs available in the local area.

3.4.2 Sydney Metropolitan Strategy

Action A1.4 of the Metropolitan Strategy relates to reducing the rezoning of employment lands to residential zonings across Sydney. The following extract from the Sydney Metropolitan Strategy sets the current planning policy in relation to the rezoning of employment lands:

Across Sydney there has been a trend to convert employment lands to uses such as housing, due to high housing demand and excellent financial returns from residential development. Such losses of strategically located employment lands can be detrimental. It may reduce future opportunities for business to locate near assets, infrastructure or labour which would generate significant economic benefits.

The loss of employment land in established areas can also increase costs for the community. Workers may need to travel further out to new industrial areas, and business to business transactions may have to be conducted across greater distances.

Much of the conversion of employment land to residential uses has been done in the absence of a strategic context, and without an understanding of the cumulative impacts of the loss of employment lands. Some steps need to be taken which will bring structure to the rezoning process and reduce the risk of losing valuable employment lands, particularly in the inner and middle suburbs.

The loss of employment lands in Leeds Street Rhodes is inconsistent with Action A1.4 of the Sydney Metropolitan Strategy. The proposed development does not represent the preferred use of the land for industrial purposes.

3.4.3 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 km², 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 a language 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
C1 <i>Ensure Adequate Supply of Land & Sites for Residential Development</i>	The site is located within an industrial area that has been identified as employment lands
C2 <i>Plan for a Housing Mix near Jobs, Transport and Services</i>	Whilst the proposal does involve housing mix, the proposed mix is considered inappropriate for an affordable housing development. The redevelopment of the existing industrial site will result in loss of employment lands and the site is remotely located from public transport and necessary services
C3 <i>Renew Local Centres</i>	The site is over 1 kilometres walking distance from the nearest local shopping precinct at the Rhodes Waterside Shopping Centre
C4 <i>Improve Housing Affordability</i>	The proposal provides 250 Affordable rental housing units varying from studios to one, two and three bedrooms which are to be set aside for rental housing for a period of 10 years, however, the unit mix proposed does not address the needs of a range of potential residents
C5 <i>Improve the Quality of New Development and Urban Renewal</i>	The proposal is considered to be a significant overdevelopment of the site and will not improve the quality of new development within the local area and whilst it will result in urban renewal, it will also remove existing industrial employment lands

The Subregional Plan, for the Inner West, also seeks an additional 30,000 new dwellings over the next 20 years to 2031; specifically Canada Bay Council has a dwelling target of 10,000. The provision of 501 new apartments as proposed is not necessary to achieve this target – Council's Local Planning Strategy demonstrates that this target will be easily met by planned development in areas such as Rhodes West and Breakfast Point without the need for unscheduled spot rezonings taking place which is predominantly what the current Leeds Street application is comparable to. This Strategy states that future rezoning of land for residential development should occur near to identified centres within the Canada Bay area and as part of a future planning review (see below for further details).

The Inner West Subregional Strategy (IWSS) identifies the Leeds Street industrial precinct as Category 1 Employment land. The IWSS states that the Category 1 Employment lands in the Inner West are:

...vital to the health of local and regional economies and should be retained to accommodate the future range of economic services to sustain those economies.

The IWSS confirms that Leeds Street is to primarily accommodate industrial and related uses within the range allowed under the current zone. The proposal to construct a residential development on the land is contrary to the requirements of the IWSS.

The entire Leeds Street industrial precinct which comprises 24 sites is located further than 800m of Meadowbank and Rhodes railway stations. Should this current development be approved, it is likely to set an undesirable precedent for potential redevelopment of all other remaining industrial sites in Rhodes and Concord West. This scenario represents a significant erosion of established policy and would result in the continued loss of industrial land. Indeed, the loss of these sites to affordable housing would result in a reduction of industrial land in Canada Bay local government area by 44%.

3.4.4 Canada Bay Local Planning Strategy

Council has developed a Local Planning Strategy to guide future planning in Canada Bay and to communicate Council's intentions to the public. The strategy was informed by an employment analysis prepared by SGS Economics and Planning. SGS identified that there would be demand for 24,250sqm of additional local industrial land in Canada Bay based on population projections.

It is important to ensure that industrial land is retained to service the local and subregional population and businesses, and ensure that this land is appropriate for local light industry.

Demand for service and light industrial land associated with population growth will continue. There is particularly high demand for industrial land that is not affected by residential interface issues and that is well located in terms of its proximity to arterial roads. Although, not a significant employer, in terms of absolute number of jobs, it is important that appropriate land of this type is retained where possible.

The Department of Planning endorsed the objectives and actions of the Local Planning Strategy on 27 November 2009.

The Local Planning Strategy contains the following specific objective and action in relation to the Leeds Street precinct:

Objective E5 Retain industrial sites within the LGA

Industrial sites at George Street, North Strathfield, Leeds Street Rhodes and the Freshfood Site (Bushells), Concord should be retained. Although the retention of these sites does not translate into significant employment growth for the LGA, these sites are important to support growth in local business activity associated with population growth and have a level of strategic significance at both a local and sub-regional level.

Action E8 Retain industrial zones at George Street, North Strathfield, Leeds Street, Rhodes and the Freshfood Site (Bushells), Concord.

The IN1 General Industrial zoning is likely to be the most appropriate land use zone for these areas. Council supports the retention of these areas for industrial purposes for the medium term with further investigation to occur within the following timeframes:

- *George Street* 5 years
- *Leeds Street* 10 years
- *Freshfood Site* 10 years

The proposal to redevelop the subject site for residential development is inconsistent with the abovementioned objective and action contained within the Local Planning Strategy and does not represent the preferred use of the land for industrial purposes as required by the Strategy. Therefore, the redevelopment of this site for residential purposes is not supported.

3.4.5 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, subdivisions 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.

It is considered that the current proposal does not satisfy the aims of this Policy as it will decrease access to jobs through the loss of employment lands to residential development, it will not reduce dependence on cars or the number of trips generated by the development due to the fact that it is not readily accessible to a range of public transport options, particularly within easy walking distance of the site and it is remotely located from other essential services such as medical facilities and shopping and other service facilities.

3.4.6 Draft Sea Level Rise Policy Statement (NSW Government, October 2009)

This policy statement outlines the Government's objectives and commitments in regards to sea level rise adaptation. It outlines the support that the Government will provide to coastal communities and local councils to prepare and adapt to rising sea levels.

The NSW Government has an objective to see coastal communities adapt to rising sea levels in a manner that minimises the resulting social disruption, economic costs and environmental impacts.

This policy is relevant to land use planning with the intent being to locate communities/development appropriately so as to avoid and minimise the issue of sea level rise. In this instance the subject development involves the location of 500 additional dwellings on a site with direct frontage to the Parramatta River foreshore. The subject site is not located above and away from the foreshore and a significant extent of the proposed built form is in close proximity to the waterway. It is likely that the extent of excavation involved with the basement parking area will extend below the sea level. Sufficient information and investigation has been carried out by the applicant to clearly demonstrate that the provisions of this policy have been satisfactorily addressed and that the proposed development will not be affected by sea level rise into the future.

3.4.7 Acid Sulphate Soil Assessment Guidelines (Acid Sulphate Soil Management Advisory Committee 1998)

The preparation and submission of a detailed acid sulphate soil assessment has not been carried out and the applicant has stated that this is due to the fact that the proposal is a Staged Development Application and this level of assessment is not required at this point. Such an assessment needs to be carried out by a suitably qualified person and in accordance with the Acid Sulphate Soils Assessment Guidelines (ASSMAC August 1998).

The subject site is located within a Class 2 Acid Sulphate Soil area under the Canada Bay Local Environmental Plan 2008. Clause 6.1 (3) of the Local Environmental Plan states that development consent must not be granted for the carrying out of works in a Class 2 area where the works are below the natural ground surface or where the works are likely to lower the water table unless an acid sulphate soils management plan has been prepared in accordance with the abovementioned Guidelines and its accompanying Manual and provided to the consent authority. The current application does not satisfy this requirement and therefore development consent cannot be granted.

4. CONSULTATION AND SUBMISSIONS

4.1 Public Exhibition Details

Under Section 79A of the EP&A Act, the Development Application must be notified or advertised in accordance with the provisions of a development control plan if the development control plan provides for the notification or advertising of the application.

In accordance with Part 2 of the Canada Bay Development Control Plan 'Notification and Advertising', the application was notified to adjoining and nearby property owners and occupiers.

After accepting the Development Application, Council undertook the following actions:

- Made the Application publicly available from **21 February 2012 until 6 March 2012** (minimum 14 days)
 - On Canada Bay Council's website;
 - At Canada Bay Council's Administration office
- Notified local landowners and residents about the proposal (and the exhibition period) with 343 letters sent;
- Notified relevant State and Local Government Authorities

A total of **twenty-six (26) public submissions** were received in response to the exhibition (**Part 4.3** of this report addresses the comments raised by submissions. Refer to **Appendix B** for list of submitters).

Three (3) public authorities (NSW Transport - Roads & Maritime Services – Sydney Regional Development Advisory Committee and the Foreshores and Waterways Committee and Environment Protection Authority) also made submissions providing comments for Council's consideration. See below under section 4.2.1.

Council also notified the application to Energy Australia (Ausgrid) and the NSW Heritage Office (due to the site being adjacent to a State Heritage Item (John Whitton Bridge)) and the NSW Police Service, however no comments have been received from these State Government authorities.

4.2 Submissions from Public Authorities

The following submissions were received from public authorities:

4.2.1 NSW Transport - Roads & Maritime Services

NSW Transport - Roads & Maritime Services (RMS) reviewed the development application and considered the application at a meeting of the Sydney Regional Development Advisory Committee on 14 March 2012. The Committee provided the following comments to Council for its consideration in the determination of the development application:

- The intersections along Concord Road and Homebush Bay Drive are currently operating at capacity. Additional traffic volumes from the precinct will further deteriorate the road network conditions in this area. RMS has previously requested an updated traffic model for the intersections along Concord Road and Homebush Bay Drive to assess the cumulative impact of the Rhodes West Master Plan and RMS considers that no further developments should be approved until the updated study has been completed and submitted to RMS.

Comment - Agreed. Council has appointed traffic consultants to undertake this study. Once it has been finalised, a copy will be forwarded to RMS for their review. The recommendation contained in this report does not support the current DA.

- The rate of 0.2 peak hour trips per unit used to calculate the trip generation of the proposed development is lower than the rate in the RTA Guidelines to Traffic Generating Developments 2002. In this regard, the trip generation rate used for the development shall be in accordance

with the Guide and the report shall be resubmitted with updated figures and modelling of the intersections impacted.

Comment - Agreed. The traffic reports submitted with the original application and the additional information that the applicant submitted on 7 February 2012 included an updated Traffic Report prepared by Halcrow. The RMS comments (from the SRDAC meeting of 14/3/2012) were also forwarded to the applicant for review and consideration. No further traffic comments have been submitted by the applicant in response to this issue.

- The submitted traffic report lacks the detailed analysis of intersection performance surrounding the site and traffic survey data to identify the impacts of the development on the road network. In this regard, traffic modelling should be undertaken to assess the impact of the development at the intersection of Blaxland Road/Leeds Street/Walker Street.

Comment - Noted. The RMS comments (from the SRDAC meeting of 14/3/2012) were also forwarded to the applicant for review and consideration. No further traffic comments have been submitted by the applicant in response to this issue.

- RMS is aware that Council has a proposal to install new traffic control signals at the intersection of Blaxland Road and Leeds Street. Council should consider requiring a portion of land (on the subject site) to be dedicated to improve the geometric layout of the proposed signalised intersection and the provision of an additional lane on Blaxland Road north approach to the intersection. Further investigation should be undertaken on the relocation of the existing electricity substation to improve the road alignment of Leeds Street through the intersection with financial contributions by the developer.

Comment - Noted. These RMS comments (from the SRDAC meeting of 14/3/2012) have been forwarded to Council's traffic engineering staff and Council has been investigating the relocation of the substation as part of the signalised intersection design. Council acknowledges that the Leeds Street/rail underpass/Blaxland Road intersection is a dangerous conflict point between cars, bikes and pedestrians and Council has been working on a signalised design for this intersection in order to address this problem. These comments were also forwarded to the applicant for review and consideration and the applicant has been provided with a copy of the current version of the signalised intersection design by Council including the proposition of relocating the existing substation. No further traffic comments have been submitted by the applicant in response to this issue.

- In order to allow sustainable growth to occur in the Rhodes West area, a multi-modal approach needs to be adopted. It is recommended that Transport NSW and the State Transit Authority be consulted to determine if additional bus services can be provided or re-routed to this area to achieve a reasonable mode shift to public transport. Council should consider organising a meeting with Transport NSW, RMS and STA to further discuss opportunities for public transport to be optimised/enhanced and improve accessibility to the Rhodes West area. The above will improve reliance on private motor vehicle trips.

Comment – Noted. Council concurs that inadequate public transport options are available to the subject site and more needs to be done to achieve improved services to the area. However, as previously noted in this report, it is Council's position that such issues would need to be fully investigated and addressed through a Master plan for the entirety of this Strategic Foreshore Site before any potential residential redevelopment in this area is contemplated.

- The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turning paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicle usage. Australian Standards require the provision of an additional 1 metre adjacent to the blind aisle to assist in manoeuvrability.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval and be complied with prior to the issue of a Construction Certificate.

- Details of the proposed access on Blaxland Road should be illustrated on the site plan such as the layout of driveways, dimensions and lane configurations of Blaxland Road. The access

should be located as far away as possible from the proposed traffic signalised intersection of Blaxland Road and Leeds Street.

Comment - Agreed. A copy of Council's signalised intersection design for Blaxland Road and Leeds Street was forwarded to the applicant for their information and consideration. No further response has been received from the applicant in this regard. The proposed access point is located as far from the proposed signalised intersection as possible.

- The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval and should be complied with prior to the issue of a Construction Certificate.

- A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

Comment - Agreed. This issue was raised with the applicants upon receipt of the original application as part of the phasing requirement details that are required to be submitted to satisfy Clause 46 of the Sydney Harbour REP. The applicant has stated that a Construction Management Plan should be required as a condition of consent, however, given the size and scale of the development and the existing road network conditions and issues that are known in this area, it is considered essential that these matters are addressed at the DA stage.

- The developer shall be responsible for all public utility/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

- Car parking provision to Council's satisfaction.

Comment – It would appear that adequate on-site resident car parking has been provided on the site. However, no visitor parking spaces have been provided, no bicycle parking spaces appear to have been provided and there are no facilities for delivery/removalist vehicles on the site. This issue would also need to be fully addressed through the Master plan process for this Strategic Foreshore Site.

- Disabled car parking spaces are to be provided in accordance with Council's requirement and are to conform to Australian Standard 2890.6:2009.

Comment – Agreed. It would appear that adequate disabled on-site car parking spaces have been provided on the site. However, some of these spaces could be more appropriately located in proximity to lift wells.

- All new pedestrian accesses are to comply with AS 1428.1:2001 *Design for Access and Mobility*.

Comment – Agreed. Insufficient detail has been provided on the submitted plans to determine that pedestrian access points will comply with these requirements.

- Provision for building maintenance vehicles and removalists needs to be provided on-site.

Comment – Agreed. This issue has been previously noted in the report as no on-site parking has been provided for removalist vehicles and given the size and scale of the development and the extent of affordable rental housing proposed, parking for these vehicles would be essential.

- Consideration should also be given to providing bicycle parking facilities either within the development or close to it, as well as end trip facilities such as showers, changing rooms, etc to encourage bicycle use for travelling to and from the development.

Comment – Agreed. No bicycle parking facilities have been shown for the site in the submitted plans. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

- All vehicles are to enter and leave the site in a forward direction.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

- The proposed development will generate additional pedestrian movements in the area. Consideration should be given to ensuring pedestrian safety.

Comment - Agreed. It is recommended that this comment be adopted as part of a Master plan that should address the entirety of the Strategic Foreshore Site.

- The proposed turning areas are to be kept clear of any obstacles, including parked cars, at all times.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

- All traffic control during construction must be carried out by accredited RMS approved traffic controllers.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

- All works/regulatory signposting associated with the proposed development are to be at no cost to RMS.

Comment - Agreed. It is recommended that this comment be adopted as a condition of consent should the application be supported for approval.

In summary, it is submitted that the traffic report prepared by Halcrow has serious deficiencies which could not be resolved through conditions of development consent. The proposal is likely to result in significant adverse traffic impacts in the area and creating both an unsatisfactory and unsafe situation in the proximity of a recognised black spot intersection at Blaxland Road/Leeds Street/Rail underpass.

4.2.2 Foreshores and Waterways Planning and Development Advisory Committee (Roads & Maritime Services, Dept. of Planning and Infrastructure and Council)

The Foreshores and Waterways Planning and Development Advisory Committee reviewed the development application and considered the application at a meeting of the Committee on 2 March 2012. The Committee provided the following comments to Council for its consideration in the determination of the development application:

- The proposed development site is zoned IN1 – Industrial General under the Canada Bay LEP 2008. It is understood that industrial land is a limited resource in the Canada Bay LGA. Residential units are prohibited development in the zone, however, the application has been lodged under the Affordable Housing SEPP.

Comment – Noted. These matters have been addressed previously in this report. Council considers that the current application will result in the loss of employment lands and there is insufficient justification provided by the applicant to demonstrate that the existing industrial area is in economic decline and should be redeveloped for residential purposes.

- The site is listed as a Strategic Foreshore Site by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP). The SREP requires that strategic sites be master planned in accordance with requirements set down in Clause 46. However, the Committee understands that the applicants seeks to proceed with a staged DA under Section 83C of the EP&A Act 1979. A requirement of this approach is that criteria set down in Clause 46 of the SREP are fully addressed.

Comment – Noted. These matters have been addressed previously in this report. Council considers that the provisions of Clause 46 have not been adequately addressed within the development application submission.

- The Committee notes that from a foreshore perspective the main context of the site is defined by the development fronting both sides of the Parramatta River between a road bridge to the east and a nearby pedestrian and cycle bridge to the west. Existing development in this area is predominantly low rise. Development in the immediate vicinity of the subject site ranges from one to three storeys in height. The taller buildings, which are located in Meadowbank, on the opposite side of the river are approximately eight storey and set back from the foreshore. The Rhodes West area plays a lesser role in the context from a foreshore perspective as it is physically separated from the site by substantial structures, being the railway corridor and the pedestrian and railway bridges.

Comment - Agreed. These comments were forwarded to the applicant for review and consideration. No further comments have been submitted by the applicant in response to this issue. Council concurs with the Committee's position on the context of surrounding development and does not consider that the proposal responds appropriately to this context.

- The Committee also notes that the application provides limited information on how the proposal will address the matters listed under Clause 46 of the SREP including the phasing of development, the remediation of the site and the design principles in relation to the context given the matters raised above. The application does not provide an assessment of the proposal against the matters for consideration set out in Clauses 20 – 27 of the SREP and does not include an assessment of the relevant provisions of the Sydney Harbour Foreshores & Waterways Area DCP (Sydney Harbour Catchment) 2005.

Comment - Agreed. The DCP which accompanies the SREP has not been addressed and for the reasons set out previously in this report, Council does not consider that the provisions of Clause 46 of the SREP have been adequately addressed. Nor have Clauses 20 – 27 of the SREP been addressed and these are not satisfied by the proposed development.

4.2.3 Environment Protection Authority

The Environment Protection Authority (EPA) reviewed the development application and in a letter dated 27 February 2012, the EPA provided the following comments to Council for its consideration in the determination of the development application:

- The report prepared by Molino Stewart dated January 2010 notes the potential for contamination of the site from the fill used for foreshore land reclamation coming from unknown sources; use of the site for timber milling; production of transformers and electrical equipment; presence of a boiler during the production of electrical equipment; and chlorinated hydrocarbons or hydrocarbon solvents used for metal cleaning. With these potential contaminants of concern, the EPA considers that the only investigation report, (Johnston Environmental Technology (JET 1993), which included no chemical analysis and only photo-ionisation detector (PID) testing from six auger holes, as inadequate.

Comment – Noted. The EPA's advice was forwarded to the applicant for review, however, no further response or information has been forthcoming.

- Council should consider the need for a Stage 2 site investigation and that such an investigation be carried out in accordance with the EPA's 'Guidelines for Consultants Reporting on Contaminated Sites'. Additionally, we recommend that this site investigation be the subject of review by a Contaminated Site Auditor accredited by the EPA and the subject of

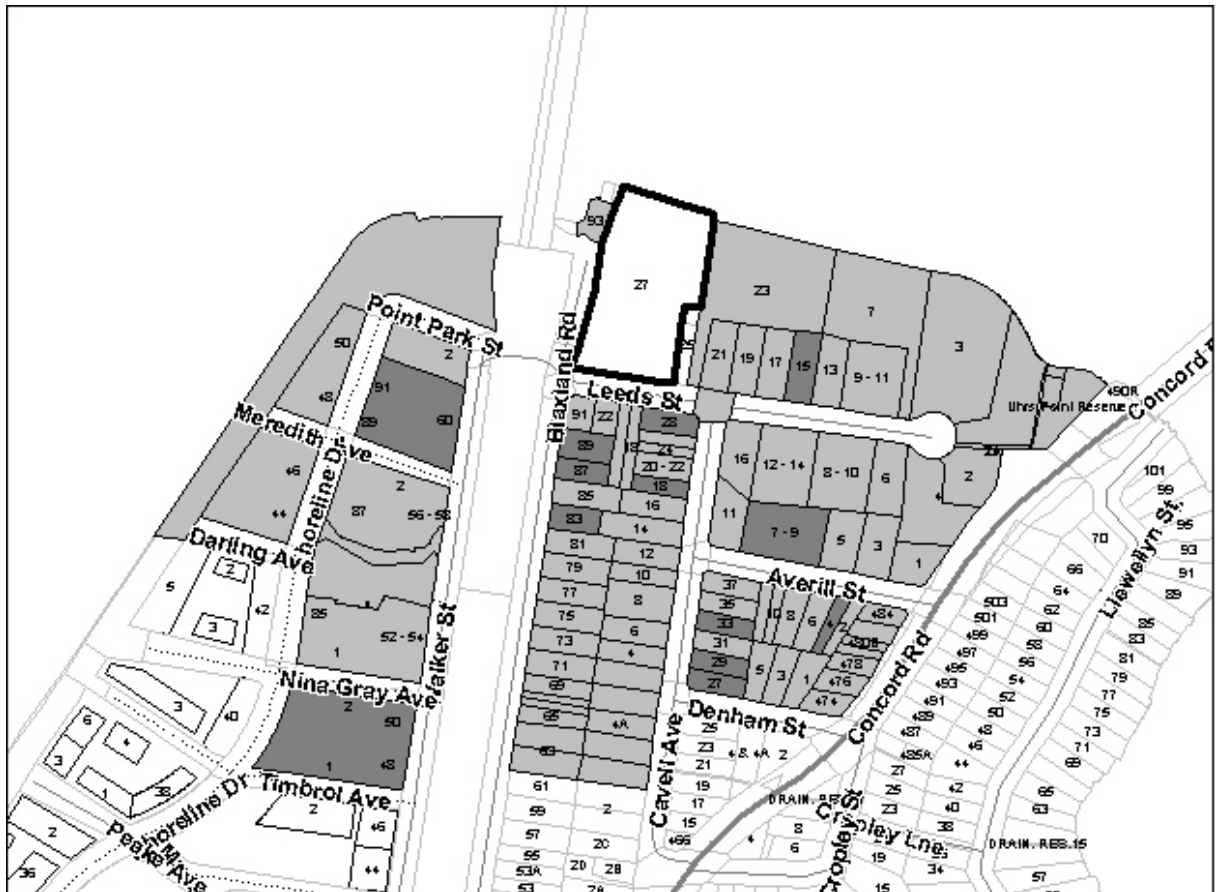
a Statutory Site Audit Report. Reference is also made to the requirements of the State Environmental Planning Policy 55 – “Remediation of Contaminated Land” for this matter.

Comment – Noted. The EPA’s advice was forwarded to the applicant for review, however, no further response or information has been forthcoming. It should be noted that Council’s Environmental Health Officers concur with the above advice of the EPA.

In addition to the above, it should be noted that remediation of the site is a fundamental issue under Clause 46 of the Sydney Harbour REP and both Council and the JRPP would need to be satisfied that the site can be satisfactorily remediated in accordance with the requirements of SEPP 55 before any development consent could be issued for the development. It is also considered that the issue of contamination and remediation would need to be fully investigated as part of any Master plan for the entirety of the Strategic Foreshore Site.

4.3 Public Submissions

Twenty-six (26) submissions were received from the public. The location map below indicates the objector’s properties around the site, in darker shading. The lighter shading indicates properties notified of the proposal. It should be noted that some submissions were received from property owner/occupiers located beyond the boundaries of the map area shown below.



The key issues raised in public submissions are listed below -

- Insufficient Open Space, Impacts on Existing Open Space and Lack of Connectivity
- Inappropriate Building Height and too close to foreshore
- Traffic Generation, Access and Lack of Parking
- Lack of Regular Public Transport Services
- Land is zoned Industrial
- Development will Overshadow and Overlook Houses
- Site is over 850 metres from the railway station
- Density of Development is too High – overdevelopment of site, excessive bulk and scale

- Lack of public facilities
- Intersection of Leeds Street/Blaxland Road is a black spot
- Proximity to Heritage Structure
- Inadequate School Places and facilities available for additional children

A list of all public submissions has been included below and a copy of all submissions is contained in **Appendix B**:

- *Insufficient Open Space, Existing Open Space and Lack of Connectivity*

Concerns are raised with respect to a lack of open space on the site, along the foreshore and a lack of connection to existing open space areas, particularly in Rhodes West.

Response

The proposed development includes 6397m² of open space (including the 20m wide foreshore open space area) plus 690m² within the undercroft area at the south-western corner of the site. The proposal as originally submitted to the Department of Planning with the application for a Site Compatibility Certificate included approximately 20,000sqm although some of this did include public property. Council is currently working on a design to create a shared zone at the northern end of Blaxland Road which will create a more defined linkage between the Leeds Street area and the open space areas within Rhodes West to the western side of the railway line.

- *Inappropriate Building Height and Proximity to Foreshore*

This issue has been raised by objectors and relates to the proposed development being up to 20 storeys in height and the proximity of the development to the foreshore.

Response

The height, bulk and scale of the development is considered to be out of character with the predominantly one and two storey residential dwellings immediately to the south of the site and the one and two storey industrial buildings to the east. The proposed development is considered to be out of character with the dominant built form of the surrounding area and out of context with this area and the lower scale medium density development on the northern foreshore at Meadowbank. The height, bulk and scale of the development is located too close to the foreshore and is likely to have an adverse impact on views and vistas to and from the waterway as a result and will also adversely impact on the amenity of existing low scale residential development to the south and south-east of the site.

- *Traffic Generation, Access and Lack of Parking*

Concerns have been raised with regard to the existing road network already being overloaded, the proposed access to the site and the lack of on-site parking.

Response

The NSW Roads and Maritime and Council's traffic engineering staff have raised concerns with the ability of the existing road network to accommodate the traffic likely to be generated by the proposed development. The access point off Leeds Street is considered to be the safest and most appropriate location for vehicular access into and out of the site, particularly given Council's plans for the signalisation of the Leeds Street/Blaxland Road intersection and plans to turn the northern end of Blaxland Road into a shared pedestrian/boat trailer parking/vehicular area. The amount of resident parking provided on the site is considered to be acceptable given the parking requirements that have been adopted for residential development in nearby Rhodes West, however, no visitor parking, bicycle parking spaces or area for removalist/service vehicles has been provided.

- *Lack of Regular Public Transport Services*

Concern is raised that the distance to the Rhodes Railway Station and the ferry wharf at Meadowbank and the irregular nature of the bus service in the local area will deter future residents from using public transport.

Response

Council agrees with these concerns and maintains that both the Railway Station and the Ferry Wharf do not meet the minimum walking distances for 'accessible area' under the Affordable Housing SEPP. Council also considers that the existing bus service is inadequate to service an increased population such as that likely to be generated by the proposal.

- *Land is zoned Industrial and is not Appropriate for Residential Development*

Response

The site is located within an industrial zone and Council agrees that the site is not suitable for residential development.

- *Development will Overshadow and Overlook Houses*

Response

The height, bulk and scale of the development and its proximity to the low scale residential properties to the south of the site will result in significant overshadowing and overlooking impacts.

- *Site is over 850 metres from the railway station*

Response

As previously noted in this report, Council does not consider that the subject site fully satisfies the 'accessible area' definition contained in the Affordable Housing SEPP due to the fact that the railway station is more than 800 metres walking distance from the site and the Meadowbank Ferry Wharf is over a kilometre from the site. The bus service is the only public transport service that meets this definition and it only just satisfies the regularity of service required.

- *Density of Development is too High – overdevelopment of site, excessive bulk and scale*

Response

Council concurs with this concern. The height, bulk and scale of the development is excessive particularly given the context of surrounding development in Rhodes particularly east of the railway line.

- *Lack of public facilities*

Response

Concern has been raised regarding the lack of any additional public facilities being provided as part of the proposed development. Whilst an area of publicly accessible foreshore open space is proposed, no indication of embellishments within this area or whether this area is to be dedicated to Council as public open space has been provided. No other public facilities are proposed as part of the development.

- *Intersection of Leeds Street/Blaxland Road is a black spot*

Response

This has been acknowledged by Council and design work on the signalisation of this intersection is now well advanced. The signalised design will also include pedestrian crossings.

- *Proximity to Heritage Structure*

Response

As previously noted in this report, the subject site is adjacent to the John Whitton Bridge which is a state and locally listed heritage item. Council's heritage advisor has reviewed the Heritage Impact Statement submitted by the applicants and has formed the view that the proposal will adversely impact on the significance of the bridge as the proposal will block important views of this bridge from the public domain and the scale of the development would overwhelm the bridge.

- *Inadequate School Places and facilities available for additional children*

Response

Given that the proposal involves 500 units, the issue of additional child population and the pressure this would potentially create on existing schools within the area was raised with the applicant following the lodgement of the application. Council requested the applicant to consult with the Department of School Education on this matter. The applicant has not investigated this issue any further and this issue remains of concern.

4.4 Internal Referrals

Stormwater Management

The application was referred to Council's Engineer for comment on stormwater management. No conceptual stormwater management plan has been prepared for the development and submitted to Council for review. Council is concerned that given the level of excavation proposed for the basement parking and the extent of the proposed development, that potential drainage issues associated with the existing water table etc have not been addressed.

Traffic and Parking

The application was referred to Council's Traffic Engineer for comment. Whilst engineering staff have acknowledged that the Affordable Housing SEPP excludes the affordable rental housing units from the requirement for parking, the SEPP does not appear to include market housing in this requirement. Therefore, based on the parking requirements for residential units under the Canada Bay DCP of 1 car space per 1 bedroom unit/studio, 1.5 spaces per 2 bedroom unit and 2 spaces per 3 or more bedroom unit, and 0.5 visitor parking spaces per unit, a total of 479 spaces would be required for the development. The proposal provides 500 parking spaces which would satisfy the DCP requirements.

However, Council's DCP- *Bicycle parking and storage facilities* requires residential developments to provide 1 bicycle storage space for every dwelling and 1 bicycle parking facility for every 12 dwellings. No bicycle parking appears to have been included in the development proposal.

As previously stated, the proposed development is of such size and scale that it is likely to result in serious traffic impacts on the existing road network and the existing dangerous intersection at Blaxland Road and Leeds Street. The proposal is not supported in its current form due to its unacceptable traffic impacts and the fact that the Halcrow report has not adequately addressed these concerns.

Landscaping

The application was referred to Council's Landscape Architect for comment. The officer has stated as follows:-

- *The common open space area will be in shadow during the majority of the day in winter and full sun during the hottest part of the day in summer with no provision for shade.*
- *The gateway structures, which it is assumed are supposed to be public art, do not appear to have any relevance to the site or the region and are therefore inappropriate. The one proposed for the Leeds St/Blaxland Rd intersection entry is on public land, which is also inappropriate.*
- *The spaces shown on the landscape plan indicate no programming or even consideration of how the spaces will be used.*
- *The lack of vegetative screening to the western boundary is detrimental to the enjoyment and use of the public open space around and under the John Whitton Bridge.*
- *The café has an internal frontage to what is a private space. The majority of walk by traffic will be along the foreshore path. This raises questions as to the long term sustainability of this business.*
- *The Leeds St/ Blaxland Rd intersection entry is over land currently leased to Ausgrid and the land houses an electrical sub-station. The plan still shows this infrastructure in place. This is an inappropriate scenario for what is proposed to be the main entry to a high density area.*
- *The building in the north western corner of the site is excessive in bulk and scale given its proximity to the proposed public open space under and around the John Whitton Bridge.*

- *The findings of the HIS are not concurred with in that it suggests that the building in the North-West corner of the site will impact on the John Whitton Bridge. Following are the first three controls in Council's DCP that relate to development within the vicinity of heritage items:*
 - *C1 The setbacks of new development in the vicinity of a built heritage item should generally be equal to or greater than that of the heritage item.*
 - *C2 Development in the vicinity of a heritage item should not be of such bulk or height that it visually overshadows the heritage item.*
 - *C3 Important views to or from a heritage item should not be obscured by new development.*

All three of these controls have been contravened. While it could be argued that the setback of the proposed development does not exceed that of the bridge because it spans the whole river the State heritage listing describes the bridge span and stone abutment separately. By allowing the development to exceed the setback of the stone abutment it not only contravenes C1, but also allows non compliance with C3 by blocking views to the abutment from the river when travelling west.

- *The bulk and scale of the buildings this close to the foreshore has a detrimental effect on how the river landscape is perceived and experienced. Elsewhere on the Rhodes peninsula the heights of buildings have been constrained to ensure the foreshore experience is not dominated by the built elements.*
- *The landscape design of the internal space seems to indicate that there will be public access allowed through the inclusion of a very wide pedestrian spine that intersects the site. This is further reinforced by the inclusion of the very wide set of steps that connects with the proposed shared zone attached to the public open space off Blaxland Rd north. To my knowledge there is no offer of this space being offered as public open space, nor has Council expressed any desire for it to be so. If the public are going to be encouraged to enter this space and it is to remain in private ownership I see maintenance, administration and litigious issues in the future.*

Environmental - Remediation

The applicant submitted a Stage 1 Contamination Assessment by Molino Stewart Pty Ltd and this report further identifies that the site is affected by fill used for foreshore land reclamation coming from unknown sources, presence of a boiler during the electrical equipment production use and potential impacts from an electrical transformer on the boundary of the site.

Council's Environmental Officers have reviewed the Phase 1 report and requested that a Phase 2 report be submitted for consideration prior to the development application proceeding any further.

Environmental - Waste

The application was referred to Council's Waste Officer for comment on waste management. The officer was unable to make an assessment of the staged DA as no Waste Management Plan or conceptual plan demonstrating how waste will be minimised and managed on the site was submitted with the DA.

Heritage

The application was reviewed by Council's Heritage Advisor who has now advised that the proposal is likely to have an adverse impact on the heritage significance of the John Whitton Bridge which is adjacent to the property on its western side and which is listed as a heritage item on the State Heritage Register and is listed as a heritage item in both the Canada Bay and Ryde Local Environmental Plans. The proposal will block important views of this bridge from the public domain and the scale of the development would overwhelm the bridge. The Heritage Advisor has stated that the application should not be approved in its current form.

Strategic Planning

Council's Manager Strategic Planning has reviewed the application and the Affordable Housing Study prepared by Duane Location IQ and has advised as follows:-

Reference should be made to the letter that was submitted to the Department of Planning on 9 April 2012 when Council was asked to comment on the application for a Site Compatibility Certificate. Council's policy on the Leeds Street industrial land has not changed.

There is no doubt that the provision of affordable housing is an issue in Canada Bay as outlined in the Duane Location IQ report.

Council has not been approached by other landowners requesting a rezoning.

Who is the proponent? Why has nothing (except a letter) been submitted by St George on their role and management of the affordable housing if they are the proponent? Location referred to Fife as being the proponent.

The site as proposed is 'overdeveloped' and may set an inappropriate precedent for future redevelopment of the industrial Leeds Street precinct.

Council does not need the redevelopment of this site to meet its dwelling targets under the Sydney Metropolitan Strategy.

The provision of affordable rental housing is supported by the City of Canada Bay. Indeed Council owns 24 affordable rental units for key workers in the City. Over the past few years Council has entered into voluntary planning agreements with developers to deliver this public benefit to the City. Council's units will be held in perpetuity unlike the affordable units proposed at 27 Leeds Street which only need to be made available for 10 years.

Despite Council's support for affordable rental housing it should not be provided at the expense of good planning outcomes for the community as a whole.

The Leeds Street industrial precinct is located on a prominent peninsula on the Parramatta River and the subject site is indeed part of an identified Strategic Foreshore site under the Sydney Regional Environmental Plan – Sydney Harbour Catchment 2005. A Master Plan would ensure that issues such building height and form, open space provision, public infrastructure and traffic management are addressed and delivered in a holistic manner. This site should not be developed on an individual basis as this will undoubtedly result in poorly considered planning outcomes.

If this application is allowed to proceed then it is likely to set an undesirable precedent for the remaining industrial sites in this area and result in cumulative impacts. These impacts will include poor urban design, a lack of view corridors, inadequate public open space and uncoordinated foreshore access. The proposal is inconsistent with Council's Local Planning Strategy.

Council has sought to create liveable and well planned suburbs guided by Master Plans and Development Control Plans that provide good results for the entire community. Rhodes West is a case in point.

5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

The following is an assessment of the proposal against the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979 – predominantly Section 79C(b) and (c) Likely Impacts of the Development and Suitability of the Site - as the provisions of the Canada Bay Development Control Plan 2008 do not have any relevance to the Staged DA given its permissibility under the Affordable Housing SEPP and the fact that this instrument overrides the provisions of the DCP.

5.1 Overshadowing

The City of Canada Bay Development Control Plan 2008, whilst not applicable to the current proposal, does follow the planning principles adopted by the Land and Environment Court as a guide to assessing the impacts of overshadowing which may result from a development proposal. In this regard, Council's DCP states the following controls in relation to overshadowing and solar access. The objectives of these controls is to maximise solar access to living areas and private open space in order to improve residential amenity and to minimise the amount of overshadowing of neighbouring developments and outdoor spaces to maintain their amenity.

5.2.3 (C1) New buildings and additions are sited and designed to maximise direct sunlight to north-facing living areas and outdoor recreation areas.

5.2.3 (C2) Direct sunlight to north facing windows of living areas and private open space of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on 21 June.

Comment:

The Site Compatibility Certificate issued in September 2010 included the following requirements in accordance with Clause 37(7) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*:-

- 1. The development is to be reconfigured to ensure that the amenity of surrounding residential areas is not adversely affected. Matters to be given particular attention include overshadowing and overlooking. Details of which should be included in a masterplan and any subsequent development application.*

A review of the shadow diagrams submitted with the current Staged DA proposal and those submitted with the application for the Site Compatibility Certificate demonstrate that the current proposal creates a greater overshadowing impact on the low scale residential properties to the south of the site, in particular No. 91 Blaxland Road and No. 22 Leeds Street and to a lesser extent, No.'s 18 and 20 Leeds Street and No.'s 24, 26 and 28 Cavell Avenue. These are all single storey dwellings and in the case of 91 Blaxland Road and 22 Leeds Street, these properties will be predominantly in shadow during the winter months as a result of the current proposal, and therefore, the above solar access controls will not be satisfied.

In addition, the orientation, siting and footprint of the proposed buildings will also cast significant shadows over the site itself to the extent that a substantial number of the proposed units along the Leeds Street frontage will be in permanent shadow during the winter months. A number of these are single aspect 1 bedroom apartments where their only aspect is to the Leeds Street frontage. The proposed common open space area in the centre of the site will be in shadow during the majority of the day in winter and full sun during the hottest part of the day in summer with no provision for shade contained in the landscape concept submitted to Council.

The proposal will also cast long morning shadows over Leeds Street and down along Blaxland Road in the winter months affecting the existing streetscape and environment for pedestrians. These overshadowing impacts will also affect the shared pedestrian/trailer parking zone to be established at the northern end of Blaxland Road which will be a high pedestrian activity area providing a direct interface to the waterway due to the location of the boat ramp at the northern end of this street.

Finally, the shadow analysis that has been provided makes no comment on, and/or assessment of, the potential overshadowing impacts on the remainder of the Strategic Foreshore Site being No.'s 1 –

25 Leeds Street, Rhodes. Had a Master plan or DCP process been undertaken for the site as required by the Sydney Harbour SREP, it is envisaged that issues such as establishing appropriate height limits, building footprints and envelopes etc would have been fully investigated to ensure that overshadowing impacts were minimised and co-ordinated for the entirety of the Strategic Foreshore Site and the area surrounding it.

5.2 Privacy and Overlooking

As noted above, the proposed development was required to be reconfigured under the Site Compatibility Certificate (SCC) to address the issue of overlooking. The original proposal considered with the SCC comprised three (3) main building forms ranging in height from 7 storeys to 9, 12 and 16 storeys and these were contained predominantly to the eastern side boundary and the Leeds Street frontage with a large communal open space area to the south-western part of the site. The current DA proposal now comprises three (3) much more extensive building footprints ranging in height from 4 storeys to 7, 9, 12, 13, 16 and 20 storeys around the perimeter of the site with a reduced communal open space area which is now predominantly contained within the centre of the site.

The original concept submitted for the Site Compatibility Certificate (SCC) included a single built form of 7 storeys across the Leeds Street frontage. Whilst it would appear that this building would have resulted in potential overlooking issues from balconies and windows across the Leeds Street façade, the current submitted design includes 12 and 13 storey elements to the western and eastern ends of this built form which increases the number of units that would have the potential to overlook the one and two storey residential dwellings and their associated private open space areas immediately to the south of the site.

In addition to the above, the orientation of the proposed buildings around the central communal open space results in windows and balconies being located in close proximity between units, particularly those units from ground level up to level 6 in the building that will extend across the Leeds Street frontage and around to the eastern (side) boundary and the Blaxland Road boundary. The proposed design of the communal open space area in this part of this site is unlikely to provide any substantial visual and acoustic relief from these overlooking issues in view of the extensive hard paved areas and the minimal tree plantings proposed, and the limited capacity to establish significant maturity of plantings given the location of the basement carpark immediately below this area.

5.3 View Corridors/View Sharing

Currently opportunities to obtain views to and from the waterway and foreshore across the subject site are limited by the location of the existing industrial buildings which cover the majority of the property. Had a Master plan or DCP process been undertaken for the site as required by the Sydney Harbour SREP, it is envisaged that issues such as establishing view corridors through the site and to and from the waterway and the foreshore across the site would have been fully investigated and properly established – not just for 27 Leeds Street but for the remainder of the Strategic Foreshore Site (ie., No.'s 1 – 27 Leeds Street).

Under the current proposal, the orientation, siting and footprint of the proposed buildings will not afford any opportunities for views to the waterway and the foreshore from Leeds Street. Secondly, the existing open setback area to the industrial buildings from Blaxland Road on the western side of the site will be further reduced and the built form in this part of the site will be significantly higher. Therefore, existing views and vistas from Blaxland Road to the waterway and foreshore are also likely to be adversely impacted upon. This is demonstrated in some of the contextual photos and the Photomontage 02 contained in the architect's Urban Design Statement submitted with the application.

5.4 Parking, Loading and Traffic Generation

The DCP for Rhodes West adopts a parking requirement of 1 space per unit to discourage reliance upon cars within the Peninsula. However, the Affordable Housing SEPP states that it is not necessary to provide any parking for affordable rental housing developments permitted under its provisions.

The applicant has elected to provide 1 parking space per unit, however, no visitor parking spaces have been included within the development and no bicycle parking and storage has been provided on the site. Secondly, no area has been provided on the site for removalist/service vehicles for loading/unloading purposes. Given the size and scale of the proposed development and the

proportion of affordable rental housing proposed, it is considered essential that such bicycle and loading facilities are provided on the site. It is also acknowledged that the 500 spaces that have been provided would comply with Council's DCP requirements for parking for the market housing component of the site.

The proposal is likely to have an adverse impact on the surrounding street network and the regional cycleway along Leeds Street through increased traffic flows along Leeds Street and vehicular movements into and out of the site. Therefore, concerns raised by RMS relating to the operational capacity of the intersections along Concord Road and Homebush Bay Drive and concerns that additional traffic volumes from the Rhodes precinct will further deteriorate the road network conditions in this area are considered valid. Accordingly, it is considered that the RMS request that no further developments should be approved until an updated traffic study for the entire area has been completed is appropriate. Again, had the Master plan (DCP) process been properly undertaken for this Strategic Foreshore Site, it is likely that these issues would have been fully addressed as part of that process and measures recommended for implementation to address the worsening traffic situation within the road network surrounding the subject site.

5.5 Building Height, Bulk and Scale and Proximity to Foreshore

As previously mentioned in this report, the proposed development comprises three (3) extensive building footprints ranging in height from 4 storeys to 7, 9, 12, 13, 16 and 20 storeys around the perimeter of the site with an internal communal open space area. The proposed heights of the development are totally out of character with the one and two storey detached dwellings that dominate the area immediately to the south of the site and the one and two storey industrial buildings that dominate the area to the east and south-east of the site.

The original proposal considered by the Minister with the application for a Site Compatibility Certificate involved a floor space ratio of 3.55:1 – as stated in the SEE the current proposal now involves an FSR of 4:1. This will exceed the majority of approved developments in the Rhodes West part of the peninsula which has been master planned and developed in accordance with a Development Control Plan. Only one of the sites in Rhodes West exceeds 4:1 being the Mirvac site which is 4.5:1. However, this site involves the dedication of 1350sqm of public open space to Council in the form of a fully embellished Town Square and the site immediately adjoins the Rhodes Railway Station and is within 300 metres walking distance of the Rhodes Waterside Shopping Centre.

The proposal includes 16 and 20 storey buildings adjacent to the foreshore and the proposed shared pedestrian zone in Blaxland Road. These heights are considered to be excessive in the context of the surrounding low scale residential and industrial development and are likely to have significant visual impacts on the foreshore and the waterway, including visual impacts on Meadowbank on the opposite side of the river and the John Whitton Bridge which is a state listed heritage item.

5.6 Streetscape and Urban Character

As has been previously noted in this report, the established character of the Leeds Street area east of the railway line is dominated by low scale one and two storey detached dwelling houses and one and two storey industrial buildings and the existing streetscape is defined by these developments. The proposal will introduce elements into the existing streetscape that will dominate the scale of existing houses and industrial buildings in the immediate vicinity and completely change the nature of this built environment.

The proposed design will result in multi-storey buildings with continuous facades along the Leeds Street frontage and the Blaxland Road frontage which range in height from 7 up to 20 storeys with inadequate setbacks to both streets provided. The height, bulk and scale of these structures will overwhelm the existing low scale nature of these two streets and significantly alter the urban character of this established area.

5.7 Social/Economic

The proposal is likely to have significant social and economic impacts on future residents of the development for the following reasons:-

- The development site is isolated from a variety of public transport services and shopping and other facilities. Given that the majority of parking proposed for the site is likely to be allocated to the market housing versus the affordable rental housing, tenants living on the site will need to rely on being able to walk to public transport and other services. The inability to do so is likely to result in social isolation and a sense of being dislocated from the surrounding established residential area and particularly the community that Council is working hard to establish in Rhodes West; and
- The development will result in the loss of valuable employment lands and reduced employment opportunities for local residents including future residents of the proposed development, particularly those who may be renting the affordable housing units; and
- The mix of units proposed does not cater for families and will therefore potentially exclude this group from the affordable rental housing units; and
- The lack of community and public facilities proposed will also adversely affect the future residents of the site and add to their potential sense of social isolation from the rest of the community in the established areas around the site; and
- The development of this site in isolation from the remainder of the Strategic Foreshore Site will result in a sub-standard environment for future residents given that it will adjoin a substantial industrial area and a heavily trafficked road network surrounding the site; and
- The loss of this industrial site will have economic impacts for the wider community given the loss of employment lands and the ability for some residents to be able to work close to where they live.

6. CONCLUSION

Council has assessed the submitted plans and documentation and considered the public submissions in response to the proposal. The application is not supported under Section 79C (1) (d) due to the following issues raised in submissions relating to:

- Insufficient Open Space, Impacts on Existing Open Space and Lack of Connectivity
- Inappropriate Building Height and too close to foreshore
- Traffic Generation, Access and Lack of Parking
- Lack of Regular Public Transport Services
- Land is zoned Industrial
- Development will Overshadow and Overlook Houses
- Site is over 850 metres from the railway station
- Density of Development is too High – overdevelopment of site, excessive bulk and scale
- Lack of public facilities
- Intersection of Leeds Street/Blaxland Road is a black spot
- Proximity to Heritage Structure
- Inadequate School Places and facilities available for additional children

The assessment contained in this report concludes that the proposed development is not compatible with the existing low scale industrial and residential area that surrounds the subject site and considers that in accordance with the provisions of Clause 36(3) of the Affordable Rental Housing SEPP 2009, the proposal should be refused.

Council is not satisfied that the applicant has clearly demonstrated that the Staged DA has been made 'by or on behalf of a social housing provider' in accordance with the provisions of Clause 35 of the Affordable Rental Housing SEPP 2009 or that the current proposal has satisfied the requirements of the Site Compatibility Certificate issued by the Minister for the site in September 2010 in that it has not addressed all of the matters contained in Schedule 2 of this Certificate. Council also considers that the current proposal is substantially different to the proposal considered by the Minister in issuing this Certificate.

The proposal has not adequately addressed the provisions and requirements for a Strategic Foreshore Site under Clauses 20 – 27, Clauses 41 and 46 of the Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 and Council maintains that the requirement for a Master plan (DCP) for the entirety of the Strategic Foreshore Site has not been waived by the Minister and therefore must be complied with. No such Master plan or DCP has been undertaken and submitted with the Development Application.

The applicant has sought to overcome the above requirement for a Master plan by utilising the provisions of Section 83 of the Environmental Planning and Assessment Act 1979 through the lodgement of a Staged Development Application. The application as lodged with Council is not considered to be a Staged DA as it has not satisfied the criteria for such applications as listed in Section 83B of the Act.

The proposal is also not supported as it is inconsistent with the NSW State Plan 2012, the Sydney Metropolitan Strategy, the Inner West Draft Subregional Strategy, the Canada Bay Local Planning Strategy and the Canada Bay Local Environmental Plan 2008.

In view of the above assessment under the Affordable Housing SEPP and the Sydney Harbour SREP, the proposal is not supported by Council as it contravenes Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act. The proposal also contravenes Section 79C (1) (c) and (b) in that the site is not considered to be suitable for a development of the type, size, scale, bulk and height proposed and the development is likely to have adverse impacts on the natural and built environment surrounding the site and will have adverse social and economic impacts on the locality.

The proposal is recommended for refusal for the reasons contained in the Recommendation below.

7. RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT the Joint Regional Planning Panel Sydney East Region, as the determining authority, refuse consent to Development Application No. 527/2011 for a *Staged Development Application for demolition of existing structures and construction of a new Residential Development containing future café space and 501 units comprising 250 Affordable Housing units and 251 market housing units over 3 basement levels of parking for 500 vehicles* on land at 27 Leeds Street, Rhodes for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the provisions and requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 as the development application has not been made by or on behalf of a Social Housing Provider as required by Clause 35 of this planning instrument.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the provisions and requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 as the proposed development is not considered to be compatible with surrounding land uses.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the requirements of the Site Compatibility Certificate issued by the Minister for Planning on 2 September 2010 which makes the proposal permissible on the site under State Environmental Planning Policy (Affordable Rental Housing) 2009, as the application was not accompanied by a Master Plan (now Development Control Plan by virtue of Clause 95 Schedule 6 Savings – Transitional and Other Provisions of the Environmental Planning and Assessment Act 1979) as required under Clause 41 of Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 as the subject site is part of a Strategic Foreshore Site identified under Part 4 of this planning instrument.
4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the requirements of the Site Compatibility Certificate issued by the Minister for Planning on 2 September 2010 which makes the proposal permissible on the site under State Environmental Planning Policy (Affordable Rental Housing) 2009, particularly in relation to the requirement to reconfigure the development to address issues of overshadowing and overlooking. It is considered that the proposal will result in unacceptable overshadowing and overlooking impacts on the properties to the south of the site, the Leeds Street and Blaxland Road pedestrian areas, a substantial number of the proposed units with the building facing Leeds Street and returning around the Blaxland Road and eastern side of the site, and the proposed communal open space area within the development.
5. The proposed development does not satisfy the Objects under Section 5(a) (ii), (iv), (v), (vii) and (viii) and 5(b) of the Environmental Planning and Assessment Act, 1979, as the proposed development was not submitted with a Master Plan (now Development Control Plan by virtue of Clause 95 Schedule 6 Savings – Transitional and Other Provisions of the Environmental Planning and Assessment Act 1979) and therefore does not promote and co-ordinate the orderly and economic use of the land and increase the opportunity for public involvement and participation in the environmental planning and assessment process that would be undertaken with a Master plan (DCP).
6. The proposed development is not a Staged Development with the meaning of Section 83 of the Environmental Planning and Assessment Act, 1979, as the proposed development has not satisfied the criteria for such applications as listed in Section 83B of the Act and therefore the provisions of Section 83C (2) and (3) of the Act cannot be relied upon to overcome the requirement for the submission of a Master plan (DCP) under Clause 46 of the Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005.

7. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Buildings, particularly Design Quality Principles 1, 2, 4, 6, 7, and 9 and the requirements of Residential Flat Design Code.
8. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as the potential contamination of the site has not been fully investigated under Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land through the submission of a Phase 1 and 2 Site Investigation. Failure to fully undertake this assessment also does not satisfy the requirements of Clause 46 Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005.
9. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as it fails to satisfy the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 as a BASIX assessment and Certificate has not been submitted with the development application.
10. Pursuant to Section 79C(1) (c) and (b) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory in that the site is not considered to be suitable for a development of the type, size, scale, bulk and height proposed and the development is likely to have adverse impacts on the natural and built environment surrounding the site and will have adverse social and economic impacts on the locality.
11. The proposal is also not supported as it is inconsistent with the NSW State Plan 2012, the Sydney Metropolitan Strategy, the Inner West Draft Subregional Strategy, the Canada Bay Local Planning Strategy and the Canada Bay Local Environmental Plan 2008.
12. Pursuant to Section 79C(1) (b) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered to have unsatisfactory impacts on the road network surrounding the subject site and does not provide adequate on site parking facilities for visitor vehicles, bicycles and removalist/service vehicles.
13. Pursuant to Section 79C(1) (b) of the Environmental Planning and Assessment Act, 1979, the proposed development is likely to have unsatisfactory impacts on views and vistas to and from the waterway and foreshore and to and from the public domain as no provision has been made for the creation of view corridors through and across the site to the waterway and the foreshore and the proposed bulk, height, scale and siting of the proposed buildings is likely to adversely impact on existing views and vistas.
14. Pursuant to Section 79C(1) (b) of the Environmental Planning and Assessment Act, 1979, the proposed development is likely to have an adverse impact on the heritage significance of the John Whitton (Meadowbank) bridge which is a heritage item on the State Heritage Register under the Heritage Act 1977 and a local heritage item under the Canada Bay Local Environmental Plan 2008 and the Ryde Local Environmental Plan 2010. The proposal will block important views of this bridge from the public domain and the scale of the development would overwhelm the bridge.
15. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, the proposed development is considered unsatisfactory as the development application does not include any details for the management and reduction, storage and transportation of waste generated by the development.
16. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, and having regard to the above reasons, approval of the application is not in the public interest.

Prepared by:

A handwritten signature in black ink, appearing to read 'N. Butler', written in a cursive style.

Narelle Butler
Manager Statutory Planning Services
Canada Bay Council

Endorsed by:

A handwritten signature in purple ink, appearing to read 'Tony McNamara', written in a cursive style.

Tony McNamara
Director Planning and Environment
Canada Bay Council

APPENDIX A - COMPLIANCE WITH RESIDENTIAL FLAT DESIGN CODE UNDER STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN OF RESIDENTIAL FLAT DEVELOPMENT

Part 1 – Local Context	Consideration
Primary Development Controls	
<i>Building Height</i>	<p>The Affordable Housing SEPP is silent on height controls, however, the RFDC states that height should respond to the desired future scale and character of the street and local area. Leeds Street and the local area is dominated by one and two storey dwellings and industrial buildings. Therefore, the proposed building heights at between 4 and 20 storeys are not consistent with the desired future scale and character of the area.</p>
<i>Building Depth</i>	<p>The RFDC states the maximum building depth for apartment buildings should be 18m. If greater than this, it should be demonstrated that units still achieve adequate daylight and natural ventilation.</p> <p>The proposal provides various building depths that are below the maximum 18m, therefore compliant with the SEPP.</p>
<i>Building Separation</i>	<p>The proposal includes an internal communal open space area which results in some units in the building on Leeds Street facing each other.</p> <p>For buildings up to 4 storeys/12m in height, the RFDC recommends a building separation between habitable rooms/balconies of 12 metres. Up to Level 6 in the building facing Leeds Street, some units overlooking the internal communal open space only have separation distances of 5 metres, 8 metres and 10 metres.</p>
<i>Street Setbacks</i>	<p>The SEPP aims to establish the desired spatial proportions of the street and define the street edge; to create a clear threshold by providing a transition between public and private space; to assist in achieving visual privacy to apartments from the street; to create good quality entry spaces to lobbies, foyers or individual dwelling entrances; to allow an outlook to and surveillance of the street, and to allow for street landscape character.</p> <p>The proposal does not provide desired or appropriate spatial proportions to either Leeds Street or Blaxland Road and does not define the street edge to either of these frontages. A threshold has been established at the corner of Leeds Street and Blaxland Road through a proposed undercroft area, however, the entrance to the site and communal open space off Blaxland Road is not clearly defined and does not achieve the same threshold principle. Insufficient detail has been provided with the application to demonstrate that visual privacy to apartments on the street frontages and that good quality entry spaces, lobbies and foyers to the buildings have been achieved. The design would appear to provide an</p>

outlook and reasonable surveillance of the street. However, the setbacks to the buildings along Blaxland Road, in particular, do not allow for street landscape character to be established.

Floor Space Ratio

The SEPP aims to ensure that development is in keeping with the optimum capacity of the site and the local area; to define allowable development density for generic building types; to provide opportunities for modulation and depth of external walls within the allowable FSR; to promote thin cross-section buildings, which maximise daylight access and natural ventilation, and to allow generous habitable balconies.

The proposal is an overdevelopment of the site with excessive density proposed. Whilst thin cross-section buildings have been included in the design, the layout of these buildings around the perimeter of the site does not maximise daylight access and natural ventilation. The proposed balcony spaces are poor, particularly given the number of single aspect apartments and studio and 1 bedroom apartments proposed.

Part 2 – Site Design - Primary Development Controls

Deep Soil Zones

The SEPP aims to assist with management of the water table and water quality and to improve the amenity of developments through the retention and/or planting of large and medium size trees. The RFDC recommends that basement areas be designed so as not to fully cover the site and encourages the use of setback areas to consolidate deep soil zones and co-ordination of such zones with adjoining properties

Whilst the proposed basement areas have predominantly achieved generous setbacks from boundaries, this positive element of the designed has been negated by the setbacks to the buildings above basement level which are substantially less generous and which, in the case of Blaxland Road frontage, are likely to result in the loss of existing established vegetation and deep soil zones.

Fences & Walls

Inadequate information and detail has been provided with the application to clearly demonstrate that the definition between the proposed public, private and commercial domain has been achieved.

Landscape Design

The proposal includes a landscape concept plan that address the proposed communal open space. However, the siting and design of this area is considered to be poor in that it will be substantially overshadowed during the winter months and in full sun during the summer months with little or no shading planting provided. The access to this space through an undercroft area of the building on the corner of Leeds Street and Blaxland Road is also not supported. Substantial areas of existing vegetation on the site are also likely to be adversely affected by the proposal. The design also does not adequately address solar efficiency for apartments and the microclimate of private open spaces.

Open Space

The area of communal open space required should generally be between 25 and 30 percent of the site area. Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in contribution to public open space. The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres.

The proposal does appear to provide both public open space and communal open space sufficient to satisfy the 25 – 20% requirement.

Whilst some units are provided with generous balcony areas, others have small areas with a poor orientation, particularly some of the studio and 1 bedroom apartments in the affordable rental housing section of the development.

Orientation

Approximately 273 of the proposed 500 units appear to be dual aspect. However, the level of detail provided does not make it possible to definitively state this but it would appear that this aspect of the some apartments would reduce their demand for mechanical heating and cooling and increase their thermal efficiency.

Planting on structures

A fully detailed landscape plan for the communal open space area has not been provided.

Site Amenity*Stormwater Management*

No conceptual plans have been provided to demonstrate that adequate stormwater management can be achieved on the site.

Safety

No crime risk assessment has been undertaken for the development. However, openings from units overlook the public domain and pathways internal to the site.

Whilst some units have been orientated and separated to minimise overlooking, whilst ensuring passive surveillance of open spaces, a substantial number of units are located too close to each other to satisfy the recommended building separation distances referred to above.

Secure basement parking, and internal corridors and lobbies appear to have been provided but insufficient detail has been submitted to clearly demonstrate this.

It is not possible to determine if blind corners have been avoided throughout the development due to insufficient detail or if building entries and access ways are clearly identified.

<i>Visual Privacy</i>	Inadequate separation has been provided between some units and no privacy devices appear to have been provided between these units.
<i>Building Entry</i>	Due to the level of detail provided it is not possible to establish that clear, readily identifiable and accessible entries have been provided to the building from the street frontage to allow clear orientation by visitors.
Site Access	
<i>Parking</i>	<p>Parking provided is compliant for the market housing component of the development, however, no parking has been provided for the affordable housing units and no bicycle parking, removalist or service vehicle loading area has been provided on the site.</p> <p>The site is also isolated from a variety of public transport services which is likely to increase the reliance of residents and visitors on cars.</p> <p>Parking is located below ground.</p>
<i>Pedestrian Access</i>	Development is readily accessible from and between the primary street frontage, podium (communal) area and through to the secondary street frontage. An Access Report demonstrating compliance was also submitted in respect of the proposal and supported by Council's Access Committee.
<i>Vehicle Access</i>	A single carparking access point is provided off Leeds Street and is considered the most appropriate location for this access given the proposed signalisation of the intersection of Leeds Street and Blaxland Road.

PART 03 - BUILDING DESIGN

Building Configuration

<i>Apartment Layout</i>	Approximately 273 of the proposed 500 units appear to be dual aspect. However, the level of detail provided does not make it possible to definitively state this but it would appear that this aspect of the some apartments would reduce their demand for mechanical heating and cooling and increase their thermal efficiency.
<i>Apartment Mix</i>	The proposal does not incorporate an appropriate mix of one, two and three bedroom units for an affordable rental housing development, particularly given the minimal number of 3 bedroom apartments proposed for this component of the development. No details have been provided to demonstrate that a percentage of the total units will be adaptable.
<i>Balconies</i>	<p>It would appear that the majority of studio and 1 bedroom apartments and some of 2 bedroom units all have balcony areas of 7sqm or less with 2.0m balcony depths. This is considered to be inadequate for the only private open space area for these units as they constitute almost 50% of the total number of units proposed.</p> <p>All units have balconies that act as extensions of living areas.</p>

	Therefore, it is considered that these proposed balconies will not enhance the amenity and lifestyle choices of residents and will not be functional and responsive to the environment.
<i>Ceiling Height</i>	It would appear from the detail provided, the proposed ceiling heights do not comply with the RFDC.
<i>Flexibility</i>	<p>The units provide room sizes that enable various furniture layouts.</p> <p>The internal configuration of the units is considered appropriate to accommodate various housing needs and lifestyle choices.</p> <p>The units provide adequate bedroom sizes.</p> <p>The development's lift system is capable of serving all units from the basement area up.</p>
<i>Ground Floor Apartments</i>	Ground floor apartments have been provided at the podium level connecting to the communal open space.
<i>Internal Circulation</i>	<p>The majority of floors within the development are restricted to a maximum of 8 units located off one corridor. However, there are several levels with the building to the corner of Leeds Street and Blaxland Road where between 10 and 12 units are located off one corridor and this does not satisfy the RFDC.</p> <p>An inappropriate number of units are dual aspect apartments, and as previously stated, this could be significantly improved had the applicant followed Option A in the Urban Design Analysis rather than the submitted Option E.</p>
<i>Storage</i>	The architectural plans indicate some storage areas have been allocated in the basement parking area, however, this would appear to be significantly inadequate for the number of units proposed.
Building Amenity	
<i>Acoustic Privacy</i>	Due to the level of detail submitted, it is not possible to determine whether bedrooms are located away from the main living areas and whether party walls between apartments have been minimised. No acoustic assessment of the design has been submitted.
<i>Daylight Access</i>	<p>It is noted that SEPP 65 requires 70% of apartments receive 3 hours solar access between 9am and 3pm (in dense urban areas 2 hours may suffice) during the winter solstice. It is noted that the majority of units facing Leeds Street will not achieve this requirement as they are south-facing and a substantial number of the single aspect studio apartments facing Blaxland Road will only receive westerly sun.</p> <p>It is considered that a redesign of the proposal in line with Option A in the architect's Urban Design Analysis would overcome these issues.</p>
<i>Natural Ventilation</i>	As outlined above the building is considered consistent with building depth provisions, however, cross ventilation to a significant number of units is considered to be poor and it is difficult to determine whether all habitable rooms will be able to be naturally ventilated.

Building Form

<i>Facades</i>	Insufficient detail has been provided on the submitted plans to demonstrate that the building facades have been well designed with effective articulation. No details of materials and colours has been provided.
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<i>Roof design</i>	The roof design proposed is a flat roof structure and would be consistent with surrounding industrial development and with a development of the size, scale and height proposed.
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Building Performance

<i>Energy Efficiency</i>	No BASIX certificate was submitted in respect of the application demonstrating target passes
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<i>Waste Management</i>	No waste management plan was submitted with the application to demonstrate that appropriate storage and recycling areas have been provided within the development
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<i>Water conservation</i>	No stormwater concept plans have been submitted with the application
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APPENDIX B – SUBMISSIONS

Public Submissions received in respect of notification

Name	Address
Chen Hong Bian	89 Blaxland Road, Rhodes 2138
Hongxia Miao	302/19 Shoreline Drive, Rhodes 2138
Zhengjie Kong	403/19 Shoreline Drive, Rhodes 2138
Mr T Renfrey	5/25 Blaxland Road, Rhodes 2138
Mr P Sulyan	87 Blaxland Road, Rhodes 2138
Mr Peter Mrs J Dixon	27 Cavell Avenue, Rhodes 2138
Ms Jennifer Dixon	27 Cavell Avenue, Rhodes 2138
Ms J Cheeseman	27 Cavell Avenue, Rhodes 2138
The Owners of Strata Plan No. 53363, C/- Tony Strachan	7 Averill Street, Rhodes 2138
Ms J Dang	80/50 Walker Street, Rhodes 2138
Ms Claire Atkins	18 Cavell Avenue, Rhodes 2138
Ms Jan Atkins	18 Cavell Avenue, Rhodes 2138
Mr Brendan Atkins	18 Cavell Avenue, Rhodes 2138
Ms C Walker	4 Averill Street, Rhodes 2138
Mr A Losinno	83 Blaxland Road, Rhodes 2138
Mr P Hanly	73 Llewellyn Street, Rhodes 2138
K, J, C & H Lemarquand	29 Cavell Avenue, Rhodes 2138
J Mahon	505/1 Jean Wailes Avenue, Rhodes 2138
Mr A Andrews	28 Cavell Avenue, Rhodes 2138
Xin Li	1124/60 Walker Street, Rhodes 2138
Mr H Tang	33 Cavell Street, Rhodes 2138
Mr R Barrie, Marobar Holdings Pty Ltd	15 Leeds Street, Rhodes 2138
S Bian	1/2 Nina Gray Avenue, Rhodes 2138
Mr Oliver Atkins	18 Cavell Avenue, Rhodes 2138
Mr Jack Atkins	18 Cavell Avenue, Rhodes 2138
Dr A Butler	44 Queen Street, Concord West 2138