

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL007 DA
DA Number	DA 2017/0544
LGA	Canada Bay Council
Proposed Development	Demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), centre-based child care facility, medical centre, basement parking for 583 cars and stratum subdivision into three lots. Capital Investment Value = \$247 million (approx.)
Street Address	34 Walker Street, Rhodes
Applicant/Owner	Thirty Four Walker Development Pty Ltd (a related entity of Billbergia Pty Ltd) / Mifare Pty Ltd
Date of DA lodgement	22 December 2017
Number of Submissions	One (1)
Recommendation	Deferred Commencement Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	General development over \$30 million; and Community Facility over \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004 • State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Canada Bay Local Environmental Plan 2013 • Rhodes West Development Control Plan 2015 • Planning Agreement • EP&A Regulation cl92(1)(b) – Australian Standard AS2601 – Demolition of Structures
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Conditions of Consent • Design Review Panel Report and Recommendations • Proposed Architectural Plans • Proposed Landscape Plans • Sydney Trains Concurrence • RMS Referral Comments • Public Submission
Report prepared by	Kendal Mackay, DFP Planning Pty Ltd (Consultant)
Report date	11 October 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report



planning consultants

Development Assessment Report

Council Ref: DA2017/0544

Panel Ref: 2018SCL007 DA

Demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), centre-based child care facility, medical centre, basement parking for 583 cars and stratum subdivision into three lots

34 Walker Street, Rhodes

Prepared for: City of Canada Bay Council & Sydney Eastern City Planning Panel
October 2018

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6. RMS Referral Comments
7. Public Submission

Abbreviations

AHD	Australian Height Datum
AS	Australian Standard
BCA	Building Code of Australia
CC	construction certificate
CIV	capital investment value
Council	City of Canada Bay Council
DA	development application
DCP	development control plan
DFP	DFP Planning Pty Limited
DPE	NSW Department of Planning and Environment
DRP	Design Review Panel
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	environmental planning instrument
FSR	floor space ratio
GFA	gross floor area
LEP	local environmental plan
LGA	local government area
PA	planning agreement
REP	regional environmental plan
RL	reduced level
RMS	NSW Roads and Maritime Services
SC	Subdivision Certificate
SEE	Statement of Environmental Effects
SEPP	state environmental planning policy

Executive Summary & Recommendation

1.1 Application Description

Panel Reference	2018SCL007 DA
DA Number	DA 2017/0544
Local Government Area	Canada Bay Council
Proposed Development	Demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), centre-based child care facility, medical centre, basement parking for 583 cars and stratum subdivision into three lots. Capital Investment Value = \$247 million (approx.)
Street Address	34 Walker Street, Rhodes
Applicant	Thirty Four Walker Development Pty Ltd (a related entity of Billbergia Pty Ltd)
Owner	Mifare Pty Ltd
Number of Submissions	One (1)
Regionally Significant Development Criteria (s4.5(b) of the Act)	General development over \$30 million; and Community Facility over \$5 million
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i> • <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> • <i>Canada Bay Local Environmental Plan 2013</i> • Rhodes West Development Control Plan 2015 • Planning Agreement
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Conditions of Consent 2. Design Review Panel Report and Recommendations 3. Proposed Architectural Plans 4. Proposed Landscape Plans 5. Sydney Trains Concurrence 6. RMS Referral Comments 7. Public Submission
Recommendation	Deferred Commencement Approval

Executive Summary & Recommendation

1.2 Summary

1. The development application (DA) proposes demolition of existing structures and excavation of the Site to provide six levels of basement car parking accommodating 583 cars plus loading facilities with vehicular access via Gauthorpe Street and Walker Street.
2. The proposal involves the construction of a mixed-use building comprising a 3-storey podium for non-residential uses and two residential towers above.
3. The podium accommodates commercial space, a community centre, a recreation facility (indoor), a centre-based child care facility, a medical centre, plant and storage.
4. One residential tower is 16 storeys above the podium (74.7m above ground level) and the other is 31 storeys above the podium (121.3m above ground level). The towers will contain a total of 400 residential units.
5. Stratum subdivision into three lots is also proposed comprising one lot for the community centre, commercial space, recreation facility (indoor), centre-based child care facility, medical centre and associated basement car parking, loading, storage and plant areas and one lot for each residential tower and associated basement parking, storage and plant.
6. The DA is reported to the Sydney Eastern City Planning Panel (the Panel) for determination pursuant to s4.5(b) of the EP&A Act as the proposed development has a Capital Investment Value (CIV) of approximately \$247 million and includes a community facility with a CIV of more than \$5m. The development is therefore deemed to be regionally significant development pursuant to Schedule 7(2) and Schedule 7(5) of *State Environmental Planning Policy (State and Regional Development) 2011* (SEPP SRD).
7. The proposed development is permissible with consent in the B4 Mixed Use Zone pursuant to *Canada Bay Local Environmental Plan 2013* (LEP 2013), is consistent with the objectives of that zone, complies with the height of building and floor space ratio (FSR) development standards and is consistent with other relevant provisions of LEP 2013.
8. The proposal has been assessed as being consistent with the Design Quality Principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) and generally consistent with the design criteria of the Apartment Design Guide (ADG) with the key non-compliances considered acceptable as follows:
 - (a) The non-compliance with the building separation to a future building at 29-33 Marquet Street (to the south of the Site) is contemplated by the site-specific DCP controls for this precinct;
 - (b) The non-compliances with the private open space requirements of the ADG are in most cases minor and additional amenity is provided for affected apartments by multiple outdoor areas and/or additional internal floor space. In addition, the proposal includes substantial communal open space for future residents.
9. The proposal complies with the relevant provisions of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004* (SEPP BASIX), *State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SEPP SHC), *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure) and *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP).
10. Insufficient information has been provided to determine whether the proposal satisfies the relevant provisions of *State Environmental Planning Policy (Educational Establishments*

Executive Summary & Recommendation

and *Child Care Facilities*) 2017 (SEPP EECCF) with respect to the child care facility and accordingly, consent cannot be granted to that part of the proposed development.

11. The proposal is considered to be generally consistent with the Rhodes West Development Control Plan 2015 (DCP 2015) with the key non-compliances considered acceptable as follows:
 - (a) The alternate vehicular access arrangements are considered satisfactory subject to a condition of consent requiring left-in/left-out turning movements only at the Walker Street access and installation of a central median on Walker Street;
 - (b) The building depth of the towers exceeds the DCP control although the design provides for solar access and ventilation in accordance with the ADG and the towers are well articulated;
 - (c) The alternate arrangement for a north-south connection over the southern adjoining land is considered acceptable and will provide for a wide public forecourt and entry to the leisure centre and mitigate potential CPTED issues associated with a closed-ended internal laneway.
12. The DA has been referred to the Sydney Trains (concurrence), NSW Roads and Maritime Services (referral) and Ausgrid (referral) pursuant to SEPP Infrastructure. Sydney Trains has provided concurrence to the DA subject to a Deferred Commencement condition and operational conditions. Matters raised by the RMS are considered within this assessment report and Ausgrid did not respond to the referral of the DA.
13. One (1) public submission has been received in respect of the DA with that submission objecting to the proposal on the basis of additional residential development and overcrowding in Rhodes.
14. It is recommended that the DA be approved as a Deferred Commencement consent as, subject to additional details regarding contamination and minor plan amendments/ additional details, the proposal is considered to minimise significant adverse environmental impacts and satisfactorily responds to the site specific controls for this part of the Station Precinct.

1.3 Recommendation

THAT the Sydney Eastern City Planning Panel grant Deferred Commencement Consent to Development Application No. DA2017/0544 for demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), medical centre, basement parking and stratum subdivision into three lots at 34 Walker Street, Rhodes, being Lot 101 in DP 624798, pursuant to Section 4.16(1)(a), 4.16(3) and 4.16(4)(b) of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent detailed at **Appendix 1** to this report.

1 Background

The following summarises the background to planning controls, development consents on nearby land and the events pre and post lodgement of the DA:

2014	A detailed Masterplan was prepared for the “Station Precinct” (being land bound by Walker Street, Gauthorpe Street, Marquet Street and Mary Street) within which the Site is located.
17 November 2015	Rhodes West DCP 2015 came into force.
18 December 2015	LEP 2013 was amended to rezone the land and increase the building height and FSR.
8 February 2016	Council, Billbergia Pty Ltd (the Applicant) and Walker Street Development Pty Ltd (the Developer) executed a Planning Agreement (PA) pursuant to Section 93F of the EP&A Act which applies to the Site and adjoining land owned or controlled by the Applicant. Amongst other things, the PA requires design and construction of a recreation centre on the land (see Section 4.2.11 of this assessment).
14 December 2016	A DA for “Stage 1” of the Billbergia land was approved by the then JRPP for 6-14 Walker Street and 11-23 Marquet Street comprising demolition of all structures and construction of a mixed retail and residential development with two residential towers of 39 and 28 storeys.
5 September 2017	A pre-lodgement meeting for the subject development proposal was held with Council.
22 December 2017	The subject DA was lodged with Council.
10 January 2018	The DA was publicly notified. One public (1) submission was received (see Section 4.5.1).
31 January 2018	<p>The DA was considered by the Canada Bay Council Design Review Panel. The Panel’s comments are attached at Appendix 2 and can be summarised as follows:</p> <ul style="list-style-type: none">• The street edges of the podium should be setback a minimum of 3 metres (and no more than 4 metres) as envisaged by the DCP to address concerns about the monolithic scale of the podium and its resultant building bulk. Improved public domain, particularly widened footpaths and additional significant street tree planting should be provided within any additional setback.• The height of the podium along the southern boundary adjoining 24-32 Walker Street should be reduced and the setback reconsidered as it will have a significant unacceptable impact on the amenity, outlook and solar access of units on the northern side of the building to the south.• The façade of the podium should be opened up at each level to express the public/civic activities contained within it, give a richness of depth, and improve street activation and surveillance.• The ground floor plan should be reconsidered to be more open and legible and allow direct pedestrian sight lines.• The north south pedestrian connection should reinforce the creation of a future north south laneway on the adjoining site as

1 Background

envisaged by the DCP albeit that the future laneway may be better on the eastern boundary of that site.

- Public access should be ensured through easements and/or dedication, including dedication of the increased podium setback area to facilitate extension of the public domain at street level.

22 May 2018

Council briefed the Panel on the proposed development. The Panel raised concerns regarding compliance with SEPP 65 and the ADG, particularly in regard to the southern adjoining residential property, as well as the bulk of the proposed podium with minimal setback.

June-September
2018

The Applicant forwarded amended plans and additional information to Council. The amended plans and their response to the concerns of the DRP and the Panel are discussed in **Section 4** of this Assessment Report and generally entail a reduction in bulk and increased podium setbacks and increased ADG compliance.

2 Site Context

2.1 Location

The Site is located to the west of the Northern Railway Line and just north of Rhodes Railway Station (see **Figure 1**) within the City of Canada Bay LGA.

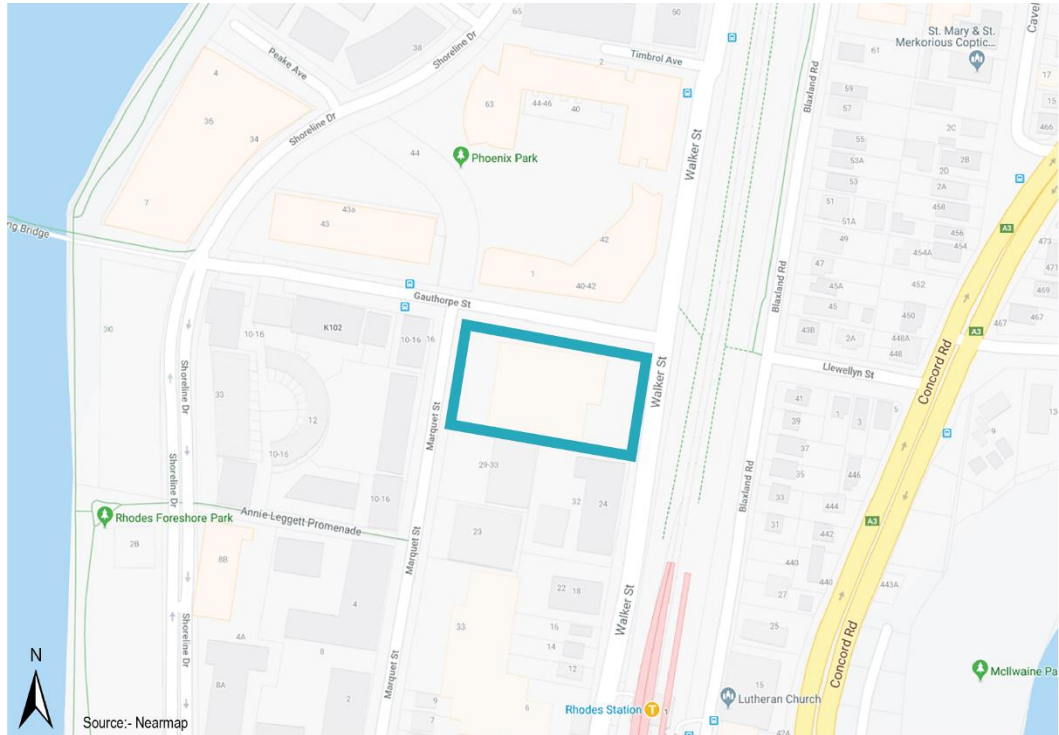


Figure 1 Site Location

2.2 Site Description

The Site is legally described as Lot 101 in DP 624798. It has frontages to Walker and Marquet Streets of 60.35m, Gauthorpe Street of 112.8m and has an area of 6,807.6m² (see **Figure 2**).

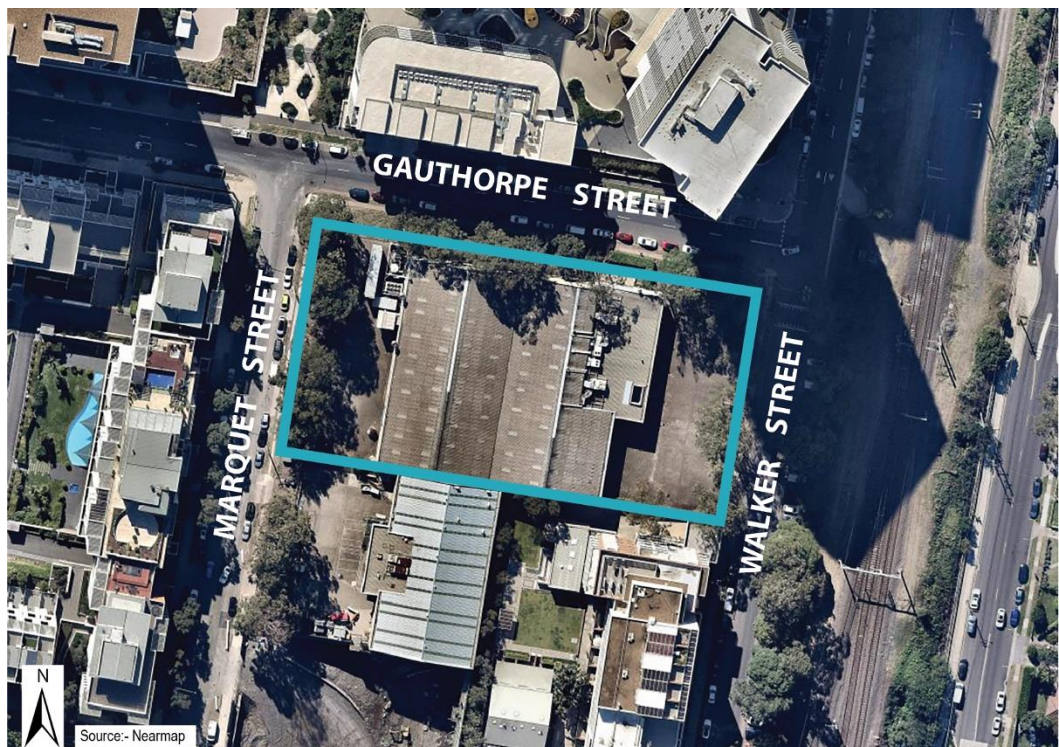


Figure 2 Site Context

2 Site Context

The Site falls approximately 3.5 metres from Walker Street to Marquet Street across the Gauthorpe Street frontage and approximately 2.5m from the southern boundary to Gauthorpe Street along the Marquet Street frontage.

The Site is occupied by a part one and part 2 storey warehouse which formerly contained light industrial and warehouse/distribution uses with vehicular access available via Walker Street and Marquet Street (see **Figure 3**, **Figure 4** and **Figure 5**).

Vegetation includes approximately 70 trees of varying species and sizes including numerous 8-12m high specimens along the street frontages.



Figure 3 The Site viewed from the corner of Walker and Gauthorpe Streets



Figure 4 The Site viewed from Gauthorpe Street looking east

2 Site Context



Figure 5 The Site viewed from Marquet Street looking north-east

2.3 Surrounding Development

The built environment of the surrounding locality has been undergoing considerable change over the past decade or so with generally low-scale industrial development being replaced with a mixture of residential apartment towers, mixed commercial/residential development and commercial development in the Rhodes Shopping Centre.

To the north is Gauthorpe Street which connects Walker Street to Shoreline Drive and Bennelong Bridge which connects Rhodes to Wentworth Point. Gauthorpe Street is a bus route and an on-road bicycle route. On the opposite side of Gauthorpe Street is a mixed residential and commercial development comprising a 26 storey tower setback between 10-20m from the intersection of Walker and Gauthorpe Streets and a smaller 8-storey element running along Gauthorpe Street (see **Figure 6**).



Figure 6 Development to the north of the Site

2 Site Context

To the east is Walker Street (see **Figure 7**) which is the main road on the western side of the railway line. Walker Street connects the Rhodes Shopping Centre and Railway Station to the railway underpass at Leeds Street, one of only two vehicular access points for no-public transport vehicles between Rhodes West and the wider traffic network. Walker Street is a bus route and an on-road bicycle route. On the opposite side of Walker Street is the Northern Railway Line with Rhodes Railway Station being approximately 150m to the south of the Site.



Figure 7 To the east of the Site

To the south of the Site at 24 Walker Street is an 8-10 storey residential apartment building with two apartments and adjoining outdoor private open spaces oriented to the north, toward the Site (see **Figure 8**).



Figure 8 Development to the south of the Site at 24 Walker Street

2 Site Context

To the south, at 29-33 Marquet Street, is two storey warehouse style building (see **Figure 9**). This property is under the control of Billbergia and is mooted to be Stage 3 of the Billbergia development within the Station Precinct.



Figure 9 Development to the south of the Site fronting Marquet Street

To the west is Marquet Street which is also a bus route. On the opposite side of Marquet Street is a 7-storey apartment complex extending along Marquet and Gauthorpe Streets (see **Figure 10**).



Figure 10 Development to the west of the Site at 10-16 Marquet Street

3 Proposed Development

3.1 Development Statistics

The key development statistics of the development are detailed in **Table 1**.

Table 1 Development Statistics	
Site Area	6,807.6m ²
Residential Apartments	400
Residential GFA	41,476m ²
Non-residential GFA	9,010m ²
Total GFA (FSR)	50,486m ² (7.42:1)
Residential Car Parking	420 parking spaces
Non-residential Car Parking	161 parking spaces
Car Share Bays	2 parking spaces
Total Car Parking	583 parking spaces
Loading Bays	5 bays

3.2 Built Form

3.2.1 Overview

The proposal involves demolition of all existing structures and removal of all trees and other vegetation. No trees on adjoining land are required to be removed.

The Site is to be fully excavated to approximately 21.5m below existing ground level for construction of basement car parking over six (6) levels for 583 cars plus loading facilities.

The proposed building to be constructed over the basement levels comprises:

- A podium with a height ranging from 13.9-17.6m with varying setbacks at the ground level, 0m setback at the first floor and a 3rd storey setback between 2-4m from the boundaries. The podium levels contain commercial space, a community centre, a recreation facility (indoor), a centre-based child care facility, a medical centre and plant storage; and
- two residential towers of 16 storeys and 31 storeys above the podium containing a total of 400 residential units.

Vehicular access is proposed via Walker Street for service vehicles and Gauthorpe Street for all light vehicles.

Pedestrian access is available via multiple locations as follows:

- The recreation facility, community facility, child care and medical centre are all accessible via a main entry off Gauthorpe Street and via a southern forecourt which is to be expanded onto the southern adjoining land under a future DA for that site;
- A small café/retail space in the south-western corner of the building will have access via Marquet Street and a future forecourt on the southern adjoining land;
- A retail space in the north-eastern corner of the building will have access via Walker Street and Gauthorpe Street;
- A small retail space on the eastern side of the building will have access via Walker Street; and

3 Proposed Development

- Tower D residential will have access via a lobby off Marquet Street and Tower E residential will have access via a lobby off Walker Street.

A new substation is proposed at Level 3 in the north-eastern corner of the podium.

It is proposed to drain stormwater to Council's infrastructure in Gauthorpe Street via a large On-Site Detention (OSD) Tank located on the northern side of Basement Level 1.

3.2.2 Podium Uses

Recreation facility (indoor) / Community Facility

The proposed recreation facility comprises a central lobby and multi-purpose community space. Several small rooms for community uses are also proposed at Level 1 with access directly off Gauthorpe Street and from a future forecourt on the southern adjoining land fronting Marquet Street.

Access to Level 2 above is via a stair (Stair 3) and a lift core located toward the northern side of the building. The lift core also serves Basement Levels 1 and 2 below.

At Level 2, an access corridor running along the northern side of the building will service two double-height multi-courts located central to the building. The courts are flanked by a gymnasium and creche to the east and gymnastics centre, indoor pool and community room to the west. Male and female change rooms and amenities are also included.

Centre-based child care facility

The SEE accompanying the DA does not contain definitive details with regard to the operation of the child care facility other than the intended hours of operation of 7am to 6pm weekdays.

However, the Traffic and Parking Impact Assessment submitted with the DA indicates that the child care facility will cater for 51 children whilst the Noise Impact Assessment refers to 52 children comprising 16 x 0-2 years, 16 x 2-3 years and 20 x 3-5 years. Accordingly, for the traffic, parking and noise assessments undertaken for this DA the proposal has been assessed on the basis of a maximum of 52 children.

Commercial Premises

Three small retail spaces are located in the south-western corner, north-eastern corner and eastern side of Level 1 of the podium. Internal fitout and use of these spaces will be subject to future development applications (if required).

Medical centre

A medical centre is proposed to be located at the southern side of Level 1 of the podium with access via the internal lobby only.

3.2.3 Residential Apartments

The proposed 400 residential apartments are contained within two towers on the eastern and western sides of the Site.

Tower D is located to the west and rises 16 storeys above the podium to a height of 74.7m above ground level. Tower D contains 126 residential apartments as well as a communal room adjoining the communal outdoor open space on the podium roof at Level 4.

Tower E is located to the east and rises 31 storeys above the podium to a height of 121.3m above ground level. Tower E contains 274 residential apartments.

The overall apartment mix is as follows:

- 39 x 1 bedroom (9.75%);
- 187 x 2 bedroom (46.75%); and
- 174 x 3 bedroom (43.5%).

3 Proposed Development

3.3 Landscaping and Public Domain Improvements

The main landscaping proposed involves a large communal open space on the podium roof, accessed via the residential lift cores of the eastern and western towers. This area will comprise a number of spaces defined by raised planting beds, lawn, paved terraces, dining/picnic tables, timber arbours. Trees up to 10m in height are proposed in the raised planting beds.

At the street level, public domain works are proposed to comprise:

- Lemon Scented Gum trees along Walker Street and Marquet Street;
- Water Gum trees along Gauthorpe Street;
- A mixture of unit paving, concrete and asphalt paving to the footpaths along the frontages; and
- Pedestrian barrier fencing at the street corners.

3.4 Vehicular Access, Parking and Loading

3.4.1 Access

Vehicular access is proposed via Walker Street for service vehicles and Gauthorpe Street for all light vehicles.

The Walker Street access is located in the south-eastern corner of the Site approximately 48m south of the intersection with Gauthorpe Street. This access is proposed to cater for left-in and left-out (northbound) as well as right-in (southbound) manoeuvres.

Whilst the proposed basement only incorporates loading and unloading facilities via this access, the Applicant has indicated that the long-term intention is that this access will service the approved retail land uses in Stage 1 via a future DA for a connection through the southern basement wall.

The Gauthorpe Street access is located in the north-western corner of the Site approximately 10m east of the intersection with Marquet Street. This access is proposed to cater for left-in and left-out (westbound) manoeuvres with other manoeuvres restricted by a new central median within Gauthorpe Street.

3.4.2 Parking

The basement car parking is over six (6) levels and provides for a total of 583 parking spaces comprising:

- 161 car parking spaces at Levels B1 and B2 for use by users of the recreation facility, community facilities, child care facility, commercial land uses and medical centre;
- 420 car parking spaces at Levels B3-B6 for the residential components;
- 2 car share bays at Level B3;
- 6 motorcycle parking spaces at Level B3.

Residential and non-residential parking is separated via dedicated access ramps leading from Level B1.

3.4.3 Loading

Five (5) loading bays are provided in a service vehicle zone in the south-western corner of Level B1. These bays accommodate waste, furniture delivery and commercial delivery service vehicles up to 10.15m in length via a vehicular turntable at the base of the Walker Street access ramp.

3 Proposed Development

3.5 Subdivision

The proposal includes stratum subdivision into three lots comprising:

- one lot for the podium uses and basement car parking, loading, storage and plant areas associated with the podium uses;
- one lot for Tower D and its associated basement parking, storage and plant; and
- one lot for Tower E and its associated basement parking, storage and plant.

4 Environmental Planning Assessment

The proposed development has been assessed in respect of the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The key environmental planning issues associated with the proposed development are:

- Compliance with relevant planning policies and controls;
- Built Form and Streetscape; and
- Transport, Traffic and Parking.

An assessment of these issues is provided in the following subsections.

4.1 Strategic Context

The proposed development is considered to be consistent with the relevant Directions, Actions, aims and objectives of *A Plan for Growing Sydney*, the *Greater Sydney Region Plan* and the *Central City District Plan* as it will:

- provide more and different types of housing as the population grows to reduce the pressure on rising house prices and provide housing in existing centres close to public transport facilities and other services;
- improve housing choice;
- provide short term construction jobs as well as long term employment opportunities; and
- deliver public recreational and community facilities to meet the demands of the growing population in the locality.

4.2 Statutory Controls

The following subsections assess the proposal against the relevant provisions of applicable Environmental Planning Instruments (EPIs), Draft EPIs, Development Control Plans (DCPs), Planning Agreements and matters prescribed by the Regulation in accordance with Section 4.15(1)(a) of the EP&A Act.

4.2.1 State Environmental Planning Policy (State and Regional Development) 2011

Section 4.5(b) of the EP&A Act provides that the Sydney district planning panel for the area in which the development is to be carried out is the consent authority for development of a kind that is declared by an EPI as regionally significant development.

Schedule 7(2) and Schedule 7(5) of SEPP SRD provide that the following are regionally significant development:

- Development that has a CIV of more than \$30 million;
- Development that has a CIV of more than \$5 million for the purposes of community facilities.

As the proposed development has a CIV of approximately \$247 million and includes a community facility with a CIV of approximately \$46 million, it is deemed to be regionally significant development and the Sydney Eastern City Planning Panel is the consent authority for the DA.

4.2.2 State Environmental Planning Policy (Infrastructure) 2007

Table 4 includes an assessment of the proposed development against the relevant requirements of SEPP Infrastructure.

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Table 2 Assessment against Relevant Provisions of SEPP Infrastructure

Provision	Assessment	Consistent
cl45 - Development likely to affect an electricity transmission or distribution network	<p>The proposal will require the removal of the existing electricity kiosk, distribution poles and overhead transmission lines in Marquet Street, excavation in close proximity to existing electricity assets and undergrounding of power lines and accordingly, triggers the requirement for a referral under ISEPP to the relevant electricity supply authority.</p> <p>The DA was referred to Ausgrid which did not respond. Notwithstanding, Council's standard conditions are recommended with regard to electricity infrastructure and a requirement for undergrounding of transmission lines along the site frontages as per the PA for the Site.</p>	Yes, Subject to conditions
cl86 – Ground Penetration within or near a rail corridor	The Site is adjacent to a rail corridor and involves ground penetration within 25m of that corridor and accordingly, the DA was referred to Sydney Trains (under delegation from RailCorp) for concurrence. Sydney Trains has provided concurrence to the DA subject to Deferred Commencement conditions relating to detailed geotechnical assessments and construction methodologies and operational conditions relating to construction practices (see Appendix 5).	Yes, Subject to conditions
cl87 – Acoustic and vibration impact on development adjacent to a rail corridor	The proposal includes residential and child care land uses and accordingly, an assessment of the impact of rail noise and vibration on the proposed land uses is required. The acoustic and vibration report submitted with the DA concludes that, with recommended glazing to various facades, the proposed development can comply with the day time and night time noise criteria for the Site and that there is not predicted to be any human annoyance or disturbance to future occupants as a consequence of train vibration.	Yes
cl104 – Traffic Generating Development	The proposed development triggers a referral to the RMS on numerous grounds due to the number of apartments (>300 apartments) and number of car parking spaces proposed (>200 spaces). The RMS has provided comments on the DA (see Appendix 7) and these are discussed in Section 4.5.3 .	Yes (see Appendix 7 and Section 4.5.3).

4.2.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP 65 includes Design Quality Principles against which the design quality of residential apartment development is to be assessed.

The Applicant has submitted a "Design Verification Statement" prepared by a qualified Architect stating that the proposed development achieves the Design Quality Principles and **Table 3** provides an assessment in this regard.

Table 3 Assessment against the Design Quality Principles of SEPP 65

Provision	Assessment	Consistent
<p>Principle 1: Context and neighbourhood character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposed development responds satisfactorily to the site specific controls in the LEP and DCP which envisage a podium containing a community centre with two residential towers above.</p> <p>The design of the podium has been refined to relate favourably to surrounding streets and nearby buildings and to minimise adverse environmental impacts.</p>	Yes

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Table 3 Assessment against the Design Quality Principles of SEPP 65

Provision	Assessment	Consistent
<p>Principle 2: Built form and scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The proposed podium has been refined to increase the setbacks at ground level and enable better physical and visual connections to/from the Site and a future public forecourt to the south. The increased setbacks also enhance the pedestrian environment of the street frontages.</p> <p>The residential towers comply with the LEP height limit, DCP floorplate limit and the ADG in respect of solar access and ventilation requirements and are well-articulated.</p>	Yes
<p>Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal complies with the LEP FSR limit for the Site.</p>	Yes
<p>Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposal complies with BASIX, the ADG solar access and ventilation requirements, includes solar panels at the podium roof and includes waste facilities and ample basement space for sustainable waste practices.</p>	Yes
<p>Principle 5: Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The LEP and DCP controls for the Site envisage a podium structure occupying the entire site although the proposal will provide street tree landscaping and minor landscaped elements on the street frontages.</p> <p>In addition, a significant landscaped communal open space is proposed on the podium roof which has been designed to include a variety of spaces for resident enjoyment while minimising adverse amenity impacts on adjoining apartments.</p>	Yes
<p>Principle 6: Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The proposal complies with the key requirements of the ADG with respect to solar access, ventilation, room sizes and accessibility. Whilst some apartments do not comply with the minimum outdoor private open space requirements of the ADG, this is considered acceptable in this instance for the reasons discussed in Table 4.</p>	Yes

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Table 3 Assessment against the Design Quality Principles of SEPP 65

Provision	Assessment	Consistent
Principle 7: Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	The proposed design has clearly defined entries and exits and minimises opportunities for concealment at the ground level. Furthermore, the range of uses and hours of operation proposed for the non-residential uses will provide passive surveillance of public accessible areas of the site and the adjoining public domain for much of the day, to supplement CCTV required by the VPA for the Site.	Yes
Principle 8: Housing diversity and social interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	The proposal provides a range of apartment types and sizes and accessible apartments and a well-considered communal open space at the podium roof level.	Yes
Principle 9: Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The proposal represents a balanced approach to aesthetics with the podium utilising materials and design features more reflective of a civic building transitioning through landscaping and softer materials to contemporary apartment towers above and the overall development will relate favourably to the surrounding high density context.	Yes

SEPP 65 also requires consideration of the Apartment Design Guidelines (ADG). The ADG includes Design Criteria and Design Guidance for achieving the Design Principles of SEPP 65. **Table 4** includes an assessment of the proposed development against the relevant provisions of the ADG.

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistent
3A Site Analysis 3A-1 Design Guidance - Each element in the Site Analysis Checklist should be addressed	The documentation submitted with the DA adequately addresses the requirement for a Site Analysis.	Yes
3B Orientation 3B-2 Design Guidance - Solar access to living rooms, balconies and private open spaces of neighbours should be considered - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% - If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	See Section 4.3.3.	Yes

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Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistent
3D Communal Open Space 3D-1 Design Criteria 1. Minimum area equal to 25% of the site area; 2. Minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (midwinter) 3D-2 Objective Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting 3D-1 Design Guidance Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	<p>The proposal includes approximately 2,270m² (33.3%) of communal open space at Level 04 with solar access from 10am to 3pm at midwinter to most of the outdoor areas.</p> <p>The communal open space provides for a number of passive and more active spaces and adjoins a large indoor communal room.</p> <p>In addition, wide planting beds are proposed between communal areas and private balconies/terraces to minimise potential adverse privacy impacts.</p>	Yes
3E Deep Soil Zones 3E-1 Design Criteria - 7% of the site area should be provided as deep soil area 3E-1 Design Guidance May not be possible on some sites including where: <ul style="list-style-type: none"> - the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) - there is 100% site coverage or non-residential uses at ground floor level 	<p>As the proposal is in a dense urban area and comprises significant non-residential podium uses, no ground level deep soil planting is proposed. Notwithstanding, substantial opportunities exist for larger shrubs and small trees to be planted in raised planting beds around the podium at Level 03 and within the communal open space at Level 04.</p>	Yes
3F Visual Privacy 3F-1 Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys): <ul style="list-style-type: none"> - 6m between habitable rooms/balconies - 3m between non-habitable rooms Up to 25m (5-8 storeys): <ul style="list-style-type: none"> - 9m between habitable rooms/balconies - 4.5m between non-habitable rooms Over 25m (9+ storeys): <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 6m between non-habitable rooms No building separation is necessary where building types incorporate blank party walls - typically along a main street or at podium levels within centres 3F-2 Design Guidance Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows	<p>Above the podium, the proposed towers substantially comply with the building separation/setback requirements of the ADG except for the southern elevation of Tower D (western tower).</p> <p>The non-compliance ranges from 1.2m at Level 4, 1.5m at Levels 6-8 and 6.5m at Levels 9-19.</p> <p>The Applicant has indicated that the southern adjoining land at 29-33 Marquet Street is under the Applicant's ownership and the DCP controls envisage a future tower form on that land, set back 18m from the Site's southern boundary, thereby providing ample opportunity for building separation.</p> <p>In addition, the amended proposal envisages a southern adjoining building slightly further east of the DCP masterplan which will offset the Tower D from a future Tower C.</p> <p>Accordingly, based on the site specific DCP controls, the minor variation from the ADG is considered acceptable in this particular instance.</p>	No but acceptable in this instance.
3G Pedestrian Access and Entries 3G-2 Design Guidance	See Table 7 at Section 4.2.10.	Yes

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Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistent
<ul style="list-style-type: none"> - Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport - Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate 		
3J Bicycle and Car Parking 3J-1 Design Criteria For development on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less	See Section 4.3.4.	Yes
4A Solar and Daylight Access 4A-1 Design Criteria <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm in the Sydney metropolitan Area; 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm 4A-1 Design Guidance <ul style="list-style-type: none"> - To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes - Achieving the design criteria may not be possible on some sites. This includes: <ul style="list-style-type: none"> • where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight 	70.5% of apartments receive 2 hours of direct sunlight to both living rooms and POS adjacent to living rooms. 7.8% of apartments will receive 0 hours direct sun to both living rooms and POS adjacent to living rooms.	Yes
4B Natural Ventilation 4B-3 Design Criteria <ul style="list-style-type: none"> - At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed 	69% of apartments will achieve natural cross ventilation.	Yes
4C Ceiling Heights 4C-1 Design Criteria Minimum ceiling heights as follows: <ul style="list-style-type: none"> - 3.3m for ground and first floor to promote future flexibility of use - 2.7m for habitable rooms; - 2.4m for non-habitable rooms. 	6m for ground and first floor. 2.85m habitable rooms.	Yes

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Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistent
4D Apartment Size and Layout 4D-1 Design Criteria 1. Apartments are required to have the following minimum sizes: <ul style="list-style-type: none"> - Studio = 35m² - 1 bed = 50m² - 2 bed = 70m² - 3 bed = 90m² - plus 5m² per bathroom in excess of one; - plus 12m² per bedroom in excess of 3. 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room 4D-2 Design Criteria 1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window 4D-3 Design Criteria 1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobes) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobes) 3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All apartments comply with the required minimum apartment size and room dimensions although 7% of apartments slightly exceed the maximum habitable room depth of 8m measured from the back of the kitchen to the nearest window. Notwithstanding, this is a very minor non-compliance in a small number of apartments and a person standing in those apartments will be no greater than 7.9m from a window. Accordingly, this is considered acceptable in this instance.	Predominantly
4E Private Open Space and Balconies 4E-1 Design Criteria 1. All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> - Studio = 4m² - 1 bed = 8m² - 2 bed = 10m² - 3 bed = 12m² 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	Whilst only 44% (176) of apartments strictly comply with the ADG requirements, 25% (103) are between 2-10% less than required and many of those apartments have two separate private open spaces which if combined, would exceed the ADG minimum. Of the 30% (121) of apartments which are more than 10% deficient in area, this generally equates to no more than 1-2m ² and virtually all apartments exceed the internal apartment size required by Design Criteria 4D-1 of the ADG by greater than 1-2m ² . Accordingly, whilst most apartments could be made technically compliant with external private open space by reducing the internal area, this is not considered to achieve a better amenity outcome in this dense urban context with high winds at upper levels and proximity to the rail corridor. Furthermore, the proposal incorporates significant communal open space and a condition of consent will be imposed restricting the placement of air conditioning condensers or services on the balconies.	No but acceptable in the context.
4F Common Circulation and Spaces 4F-1 Design Criteria 1. The maximum number of apartments off a circulation core on a single level is 8. 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Tower D has 8 apartments off the circulation core and 4 lifts whilst Tower E has 9 apartments off the core and also has 4 lifts. These arrangements are satisfactory.	Yes

4 Environmental Planning Assessment

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistent
4F-1 Design Guidance - Achieving the design criteria for the number of apartments of a circulation core may not be possible. - Where design criteria 1 is not met, no more than 12 apartments should be provided off a circulation core on a single level.		
4G Storage 4G-1 Design Criteria 1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: - Studio = 4m ² - 1 bed = 6m ² - 2 bed = 8m ² - 3 bed = 10m ² At least 50% of the required storage is to be located within the apartment	All apartments comply with both the internal and external storage requirements.	Yes
4P Planting on Structures 4P-1 Design Guidance Minimum soil standards for plant sizes should be provided in accordance with Table 5.	The architectural drawings indicate that there is scope for compliance in regard to depth of planting with planters being between 1-1.6m deep and a Deferred Commencement Condition is included requesting an amended Landscape Plan to be consistent with the amended architectural plans and to provide further details of the depth of planting.	Yes, subject to condition.
4Q Universal Design 4Q-1 Design Guidance Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features	The proposal is capable of achieving this benchmark.	Yes
4S Mixed Use 4S-1 Design Guidance - Mixed use developments positively contribute to the public domain. Design solutions may include: • development addresses the street • active frontages are provided • diverse activities and uses • avoiding blank walls at the ground level • live/work apartments on the ground floor level, rather than commercial 4S-2 Design Guidance - Residential circulation areas should be clearly defined. Design solutions may include: • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided - Landscaped communal open space should be provided at podium or roof levels	The amended plans submitted by the Applicant provide for greater pedestrian and visual permeability at the street level and minimise blank walls and services presenting to the street to the extent possible in the context of the overall design which includes a community centre and recreation facility. All residential, commercial and public entries and vehicular arrangement are separated and/or well-defined. Significant landscaping is provided at the podium levels and along the street frontages.	Yes
4T Awnings and Signage Design 4T-1 Design Guidance Awnings should be located along streets with high pedestrian activity and active frontages	Continuous awnings are not proposed, nor are they specifically required by the DCP. However, awnings over the entry lobbies to the residential towers are proposed and are acceptable.	Yes

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4.2.4 State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Table 5 provides a summary assessment of the proposed development against the relevant provisions of SEPP EECF.

Table 5 Assessment against Relevant Provisions of SEPP EECF		
Provision	Assessment	Consistent
22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development	<p>CI22 applies if development for the purpose of a centre-based child care facility does not comply regulation 107 or regulation 108 of the <i>Education and Care Services National Regulations</i>.</p> <p>Detailed information has not been provided with respect to the child care facility component of the proposal and accordingly, a condition of consent is recommended requiring a further development application for that specific use.</p> <p>Notwithstanding, it is noted that the unencumbered indoor space of 254.5m² would enable a maximum of 78 children while the unencumbered outdoor space of 419m² would enable a maximum of 59 children. This exceeds the number of children referred to in the Traffic and Parking Impact Assessment (51 children) and the Noise Impact Assessment (52 children). Accordingly, any future DA will need to demonstrate that more than 52 children can be accommodated with regard to the <i>Education and Care Services National Regulations</i>, parking requirements and noise impacts.</p>	<p>Insufficient information provided – Condition recommended requiring a further DA for the child care facility</p>
23 Centre-based child care facility—matters for consideration by consent authorities	<p>CI23 requires that, before determining a DA for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</p> <p>The Applicant has not submitted an assessment of the proposed child care facility component of the proposal against the Guideline although in broad terms, the proposed building would be capable of accommodating a child care centre use as generally depicted in the DA documentation. Accordingly, a condition of consent is recommended requiring a further development application for that specific use.</p>	<p>Insufficient information provided – Condition recommended requiring a further DA for the child care facility</p>

4.2.5 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

The application has been assessed against the requirements of SEPP BASIX and the BASIX Certificate for the proposed apartments is considered to be satisfactory.

4.2.6 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the site as it is located within The City of Canada Bay LGA. Under Part 3 of the Vegetation SEPP, Council can issue permits for the clearing of vegetation in non-rural areas in accordance with the requirements of a development control plan. Part C5 of the City of Canada Bay Development Control Plan prescribes the trees and vegetation which may be removed without Council approval.

Notwithstanding the exemptions provided by Part C5 of the City of Canada Bay Development Control Plan, the proposal includes removal of all trees on the Site (see **Section 4.5.2** - Landscaping).

4.2.7 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

4 Environmental Planning Assessment

The Preliminary Environmental Site Investigation submitted with the DA indicates that whilst parts of the Site were owned by CSR Chemicals Ltd and Union Carbide Australia Ltd from the early 1950s and 1960s, aerial photography shows that the Site contained dwelling houses until at least 1965. By 1982 the present building had been erected and the Site was owned by New Zealand Life Limited, a manufacturer of bio-medical supplies. Accordingly, it does not appear that the Site has been used for activities likely to give rise to significant contamination.

As the proposal involves excavation of the Site to approximately 21.5m below existing ground level for construction of basement car parking, no fill material or soils will remain on-site and it is considered that the Site is capable of being suitable for the proposed commercial and high density residential uses.

Notwithstanding, the Preliminary Environmental Site Investigation recommends that further assessment of filling and soils should be undertaken following demolition of, or the provision of unhindered access to, the current buildings to assess the nature of material to be excavated and if necessary a Remedial Action Plan may need to be carried out for the removal of any contaminated material. This is considered a reasonable approach given the current limited access to the subsurface. A Detailed Environmental Site Investigation is required as a Deferred Commencement Condition of Consent.

In addition, a condition is recommended to ensure that demolition of buildings is undertaken in accordance with a Hazardous Materials Survey for the safe removal and disposal of hazardous materials.

4.2.8 State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Site is located within the catchment of Sydney Harbour. The SREP includes planning principles applicable to the Site which incorporate measures to protect water quality, minimise urban runoff, conserve water and to ensure the catchment watercourse, wetlands, riparian lands and remnant vegetation are protected.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal will comply with the requirements of the SREP.

4.2.9 Canada Bay Local Environmental Plan 2013

Table 6 provides a summary assessment of the proposed development against the relevant provisions of the LEP.

Table 6 Assessment against Relevant Provisions of LEP 2013		
Provision	Assessment	Consistent
2.2-2.3 – Zoning and Objectives B4 Mixed Use Objectives of zone • To provide a mixture of compatible land uses. • To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	All proposed land uses are permissible with consent including Centre-based child care facilities, Commercial premises, Community facilities, Medical centres; Recreation facilities (indoor) and Shop top housing. The proposed development is consistent with objectives of the B4 Zone as it comprises a mixture of compatible land uses in a highly accessible location so as to maximise public transport patronage and encourage walking and cycling.	Yes
2.6 – Subdivision	The proposed development includes stratum subdivision which requires development consent. Consent has been sought for stratum subdivision as part of this DA. <i>NB: There is no minimum subdivision lot size applicable to the Site.</i>	Yes

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Table 6 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistent
2.7 – Demolition	The proposed development includes excavation which requires development consent. Consent has been sought for demolition as part of this DA.	Yes
4.3 – Height of Buildings Maximum = 125 metres	The proposed development has a maximum height of 121.3m (Tower E) which complies.	Yes
4.4 – Floor Space Ratio Maximum = 7.5:1	The proposed development has a FSR of 7.42:1 which complies.	Yes
6.2 – Earthworks	The proposed development includes excavation which requires development consent. It is considered that the impact of these works will not result in significant adverse impacts in regard to contamination, future land uses, residential amenity or watercourses subject to standard soil and erosion control measures and acoustic and vibration management practices that can be required as conditions of consent to mitigate or minimise any potential short term construction impacts.	Yes
6.10 – Public Utility Infrastructure	The documentation submitted with the DA and comments received from Council's Development Engineers and Ausgrid indicate that the Site is serviced and/or capable of being serviced with the necessary water, electricity and sewage management infrastructure.	Yes

4.2.10 Rhodes West Development Control Plan 2015

Table 7 provides a summary assessment of the proposed development against the relevant provisions of the Rhodes West DCP 2015 to the extent that they have not been addressed in the preceding sections.

Table 7 Assessment against Relevant Provisions of Rhodes West DCP 2015

Provision	Assessment	Consistent
3.2.4 Vehicle Circulation and Parking C3. 1 car share space for the first 200 dwellings and then 1 per 300 dwelling thereafter	The proposal provides 2 car share bays for the 400 apartments.	Yes
3.2.5 Landscape	The proposal includes concept street tree planting and specific requirements are included as conditions of consent.	Yes
3.2.6 Street furniture, paving and lighting	The proposal includes concept public domain improvements including concrete, asphalt and large format footpath paving, new pram ramps, pedestrian barrier fencing at corners and undergrounding of overhead electricity transmission lines. Specific requirements are included as conditions of consent.	Yes
3.2.7 Infrastructure and water management	The proposal is considered satisfactory with regard to the public domain infrastructure and stormwater management subject to conditions of consent.	Yes
3.2.8 Public art	The proposal includes indicative locations for public art and specific requirements for more detailed plans and installation are included as conditions of consent.	Yes
3.3.1 Land use	The proposal provides a mixed use development with retail/commercial and other non-residential uses at the ground level and all residential above the podium.	Yes

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Table 7 Assessment against Relevant Provisions of Rhodes West DCP 2015

Provision	Assessment	Consistent
	To the extent possible, given the necessary access driveways, an active frontage has been provided to each street.	
3.3.2 Built Form	See Section 4.2.3 and below within this table.	Yes
3.3.3 Building Bulk C6. window to window depth – 18m	The proposed towers exceed the 18m window to window building depth although the proposal complies with the ADG solar access and ventilation requirements and the residential towers are well articulated.	No but acceptable
C9. Max. 1,250m ² floorplate	1,020-1,040m ²	Yes
3.3.4 Setbacks C1-C2 & C5. Podium = 0m, 4m articulation zone, Towers = 3m	0-6m podium, 3-4m towers	Yes
3.3.7 Diversity of apartment types	The proposal includes a mix of 1, 2 and 3 bedroom apartments and apartments facing the rail corridor will be treated with appropriate glazing to mitigate potential noise impacts.	Yes
3.3.8 Flexibility C2. 15% of units to achieve AS4299	15% (60 units) are capable of achieving AS4299 compliance	Yes
3.3.9 Visual privacy and building separation & 3.3.10 Acoustic Privacy	See Section 4.2.3	Yes
3.3.11 Solar Access C1. 50% access to neighbourhood parks and green spaces 12-2pm at 22 June C2. Solar access maximised in mid-block oval plaza and laneways of the Station precinct between 1-2pm at 22 June C4. 2 hours to residential living and private open space between 9am and 3pm at 22 June	The proposal will have no impact on the oval plaza within Stage 1 of the Station Precinct and connecting laneways from 11am to 3pm. See Sections 4.2.3 and 4.3.3 with respect to internal and adjoining solar access.	Yes
3.3.12 Natural ventilation	Section 4.2.3	Yes
3.3.13 Building materials, finishes and colours	The proposed materials finishes and colours are considered acceptable in the context and given the civic role of the community centre uses within the podium.	Yes
3.3.14 Public Domain Interface C3. Active Frontages required at ground level	Active frontages have been provided to the extent possible to all streets.	Yes
3.3.15 Awnings and entrance canopies	No awnings or canopies are required for this Site by the DCP although entry canopies are provided and are acceptable.	Yes
3.3.16 Signage and advertising	No signage is proposed as part of this DA	N/A
3.3.17 Private and communal open space	Section 4.2.3	Yes
3.3.18 Front gardens	N/A	N/A
3.3.19 Above ground open space	Section 4.2.3	No but acceptable in the context.
3.3.20 Services & 3.3.21 Water conservation	The proposal includes solar panels on the podium roof and all apartments comply with the requirements of BASIX.	Yes

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Table 7 Assessment against Relevant Provisions of Rhodes West DCP 2015

Provision	Assessment	Consistent
3.3.22 Stormwater management	The LEP and DCP built form controls envisage a 100% site coverage on this Site and there is no opportunity for natural infiltration. Notwithstanding, the proposal includes significant opportunities for soft landscaping at the podium level and the stormwater design is considered satisfactory by Council's Engineers.	Yes
3.3.23 Waste minimisation, storage and removal	The proposal has been assessed by Council's Waste Management Officers and is considered acceptable subject to conditions of consent.	Yes
3.3.24 Site facilities	The proposal has been assessed by Council's Waste and Traffic Officers as being acceptable with regard to the basement loading and waste management facilities.	Yes
3.3.25 Pedestrian access, parking and servicing	The proposal provides for accessible entries to all ground floor tenancies, accessible w/c's in all public components of the recreation centre, 15% adaptable apartments and accessible car parking in compliance with Council's requirements.	Yes
3.3.26 Vehicular Access C1. Access as per Figure 41 – i.e. Walker Street service access and Marquet Street residential and commercial	See discussion below this table.	No (see discussion below)
3.3.27 On-site Parking C1. Residential = 420 spaces Leisure Centre = Demand Based	Residential = 420 spaces Leisure Centre = 160 spaces	Yes
4.7.1 Character & Place Making C3. Mid-block to provide a fine grained network of plaza's and laneways creating a permeable block C4. North-south retail laneway between Town Square and Recreation Centre C7. 14m podium (approx.)	See discussion below this table.	No (see discussion below)

Vehicular Access

The proposed access arrangements do not comply with the Control C1 of Section 3.3.26 of the DCP which requires residential and commercial access via Marquet Street and service access only via Walker Street.

The proposal is for residential, commercial and community centre vehicle access via Gauthorpe Street (left-in/left-out) and service vehicle access via Walker Street (all movements). The Walker Street access has also been designed for retail traffic associated with the approved Stage 1 development at 6-14 Walker Street and 11-23 Marquet Street. However, access through the Site to the southern adjoining land is dependent upon a modification to the Stage 1 DA and approval of a development application for 29-33 Marquet Street (Stage 3) which is yet to be lodged. This arrangement also requires significant roadworks within Walker Street including moving the centreline of the road westward and installation of a roundabout at the Walker/Gauthorpe Street intersection to accommodate a right-in turning lane.

The Applicant suggests that the modified arrangements provide for a better public domain outcome on the southern adjoining land fronting Marquet Street (not currently subject to any development consent or DA proposal) by removal of the vehicular access and a better outcome for retail users of the approved Stage 1 development.

Council's Traffic Engineers and the RMS have reviewed the proposed access arrangements and can support the alternate Gauthorpe Street access in terms of network performance and

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safety. This access is also acceptable on planning and urban design grounds in the context of the overall design which promotes a future pedestrian plaza fronting Marquet Street on the southern adjoining land.

However, Council Officers and the RMS will only support the Walker Street access on the basis of a left-in/left-out access arrangement. This will require a central median to be installed on Walker Street across the frontage of the site.

Furthermore, the proposed roundabout is not supported as Council is currently liaising with the RMS in relation to the installation of traffic signals at the intersection of Walker and Gauthorpe Streets as signals are considered to provide for a better traffic and safety outcome for light vehicles, buses, pedestrians and cyclists, given the role of this intersection as a major bus, cycle and pedestrian thoroughfare.

Accordingly, the proposed variation from the DCP controls can be supported subject to conditions of consent requiring a modification to the Walker Street access to be left-in and left-out only and subject to separate applications under the Roads Act for roadworks.

North-South Laneway

Controls C3 and C4 of Section 4.7.1 of the DCP require a north-south retail laneway between the Town Square (at Mary Street) and the recreation centre within the Site, as part of a fine-grained network of plazas and laneways creating a permeable block. Whilst the DCP does not require a laneway within the Site, the proposal does not provide for the laneway proposed on the southern adjoining land (within Stage 3) to connect to the Site as envisaged by the DCP with the location of the connecting point being a blank wall to the podium.

The Applicant suggests that introduction of a laneway along the eastern boundary of the southern adjoining site is not appropriate for the following reasons:

- It will be activated on only one side;
- Retail / commercial offerings will be marginal and located away from pedestrian flow;
- There will be significant CPTED challenges associated with the laneway; and
- There will be acoustic challenges to the adjoining residential property.

The Applicant suggests that the alternate arrangement provides for a north-south pedestrian link across the southern adjoining land, enables significant public open space along Marquet Street, and provides for a generous public open space entry to the community centre. Therefore a laneway access to the Site is not required.

The proposal as originally lodged with this DA was considered to be unsatisfactory as the southern entry to the community centre was narrow and located between fire egresses. Furthermore, the podium structure in the south west corner lacked any meaningful pedestrian thoroughfare across the south-western corner of the Site, to/from the community centre, the proposed public square to the south and beyond.

The design amendments proposed to the podium structure and the community centre entry enhance the interface between the proposed development and a future public forecourt at the ground floor level on the site to the south and provide for a satisfactory level of visual and physical connectivity across the southern adjoining land and the Marquet Street frontage (see **Figure 11**).

Accordingly, proposed alternate arrangement is considered to achieve the objective of a north-south link across the southern adjoining land and does not preclude a development on that site from achieving the east-west laneway as envisaged by the DCP.

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Figure 11 Original (top) and amended (bottom) interface between the leisure centre and future southern public forecourt.

Podium Height and Setbacks

Controls C7 and C8 of Section 4.7.1 of the DCP envisage a podium height of approximately 14 metres with a 4-metre articulation zone from the street boundaries. The proposal as originally lodged had a podium with a height ranging from approximately 18m to 22m at the north-western corner of the Site and substantially built to the boundary on each frontage. This height was considered unacceptable and contributed to the monolithic scale identified by the DRP.

The amended proposal reduces the podium height on all facades to between 13.9m and 17.6m. This has been achieved by setting back the podium wall at Level 03 and introducing a landscaped perimeter at that level and panelling to the Level 04 wall behind. The height in excess of 14m is at its maximum at the north-western corner of the Site as a consequence of the fall in the land to that point and the desire to retain the same architectural rhythm around each street frontage.

A further reduction in podium height is also proposed on the southern façade adjacent to the apartment building at 24 Walker Street to reduce the visual impact on the two north-facing apartments within that development. This is generally as envisaged by the DCP Indicative Development Concept illustrations.

Furthermore, the vertical façade fins on the eastern and western elevations no longer extend to the ground level. This provides an unencumbered physical setback of approximately 1m

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along much of these frontages and a greater setback has been provided in the north-eastern and south-western corners of the building to provide for improved pedestrian amenity and to create a visual relationship between the public domain and the activities within the building. It also improves safety by minimising the opportunity for concealment at the ground level street frontages.

Accordingly, the amended proposal is considered to satisfactorily respond to the key design issues of the DRP relating to the bulk and scale of the podium.

4.2.11 Planning Agreements

On 8 February 2016, Council, Billbergia Pty Ltd (the Applicant) and Walker Street Development Pty Ltd (the Developer) executed a Planning Agreement pursuant to Section 93F of the EP&A Act (now s7.4) which applies to the Site and adjoining land owned or controlled by the Applicant. The Planning Agreement requires, amongst other things, the following:

- Monetary contributions under the Renewing Rhodes Contributions Framework (RRCF) (conditioned as part of this consent);
- Monetary contributions for each square metre of additional GFA over and above the GFA permitted prior to the amendments to LEP 2013 in December 2015 for the purposes of construction of a recreation centre (met by this proposal);
- The Applicant to design and construct a recreation centre as part of any DA for 34 Walker Street (proposed as part of this DA);
- Dedication of land for the recreation centre (Stratum lot proposed as part of this DA);
- Undertake various works including:
 - Roadworks comprising half the width of Gauthorpe Street and Marquet Street and the full width of Walker Street along the entire frontage of the development (required as a condition of this DA);
 - Public art for Stage 2 (i.e. this DA) with a design, construction and installation cost of \$200,000 (ex. GST) (required as a condition of this DA);
 - CCTV for monitoring of public domain areas (required as a condition of this DA);
 - Undergrounding of all services in the public footpath immediately adjacent to the development site (required as a condition of this DA);
- Establishment and maintenance of laneways including any necessary easements; and
- Provision of publicly accessible car parking to retail and commercial components (proposed as part of this DA).

Part 1, Section 9 of the Planning Agreement excludes the application of s7.11 and s7.12 to the development.

As indicated above, the Applicant's obligations under the Planning Agreement have either been met as part of the proposal subject to this DA or can be met subject to conditions of consent recommended at **Appendix 1**, which require monetary contributions, dedication of land or undertaking of works in accordance with the Planning Agreement.

4.2.12 Australian Standard AS2601 – Demolition of Structures

In accordance with Section 4.15(i)(a)(iv) and clause 92(1)(b) of the Regulation, consideration must be given to AS2601 as the development application includes demolition of all existing structures. A condition of consent is recommended at **Appendix 1** requiring all demolition works to be in accordance with the provisions of AS2601.

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4.3 Environmental Impacts

The following subsections assess the key impacts of the development in accordance with Section 4.15(1)(b) of the EP&A Act to the extent they have not been addressed elsewhere in this assessment report.

4.3.1 Built Form and Streetscape

The Design Review Panel acknowledged the complexity of the project and its various components and was generally supportive of the concept of 2 towers above a podium with a strong civic presence, although the DRP had concerns with the impact of the original proposal on the streetscape and adjoining buildings. Specifically, the height of the podium, setback of the podium at the street edges and relationship to the southern adjoining apartment building at 24 Walker Street were identified for further refinement.

As discussed within this assessment report, the amended proposal has satisfactorily addressed these matters through a reduction in the podium height at the boundary, increased setbacks at the ground level and increased setback from the southern boundary adjoining 24 Walker Street.

Accordingly, the amended proposal is considered to be an appropriate response to the LEP and DCP controls which envisage a recreation centre and other uses within a podium of approximately 14m high with two residential towers above.

4.3.2 Acoustic Privacy

The acoustic report submitted with the DA has assessed the various potential noise impacts arising from the proposed development and land uses and concludes that the proposal will not exceed the applicable noise criteria.

Accordingly, subject to conditions relating to acoustic treatment of glazing and ongoing noise management, the proposal is considered acceptable with regard to potential noise impacts.

It is noted that the assessment of noise from outdoor play areas of the child care centre was modelled at 51dB(A) at the closest residential receiver at 40 Walker Street if 52 children were in the outdoor areas. This does not exceed the daytime Intrusiveness Criteria of 55dB(A), noting that the child care centre is intended to operate during daytime hours of 7am to 6pm.

However, as indicated in **Section 4.2.4**, insufficient details have been submitted to enable development consent to be granted for the child care use as part of this DA and a condition of consent is recommended requiring a future DA for this use. That future DA will need to give regard to the potential acoustics impacts of any number of children in excess of 52 children, assuming other regulatory requirements are met.

See also **Table 2** with respect to rail corridor noise.

4.3.3 Solar Access

An assessment of solar access impacts of the proposed development has been undertaken by the project architect which compares the proposed development against the approved masterplan for the precinct, which is reflected by the height and FSR limits in the LEP and the Indicative Development Concept illustrations in the DCP. The analysis is of the southern adjoining residential apartment building at 24 Walker Street and the apartment complex on the western side of Marquet Street (10-16 Marquet Street).

No. 24 Walker Street contains approximately 68 apartments, the majority of which have living rooms and balconies oriented to the east (Walker Street) or to the west (rear). There are 13 apartments in the northern end of the building although only 2 apartments have living rooms and adjoining windows directly oriented toward the Site with these being at Level 2 and Level 3. It is noted that the Applicant amended the proposal at Council's request to increase the setback of the podium from the southern (4m) and eastern (3m) boundaries of the Site proximate to these apartments.

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At present, all 68 apartments within this adjoining development are capable of receiving 2 hours direct solar access to primary living rooms and adjoining open space at midwinter.

The solar impact analysis undertaken by the project architect indicates that the north-facing apartment at Level 2 would receive no direct solar access under the prevailing DCP controls and the apartment at Level 3 would receive up to 45 minutes direct solar access. The proposal will result in this Level 3 apartment receiving no direct solar access.

Accordingly, only 1 of the 68 apartments in the complex (i.e. 1.5%) will experience a reduction in direct solar access to its living room and adjoining private open space, and the proposal is consistent with Objective 3B-2 of the ADG which permits a reduction of up to 20% where an adjoining property currently does not receive the required hours of solar access.

With respect to 10-16 Marquet Street, the solar impact analysis indicates that there are 276 apartments within the complex, of which 38 apartments have east-facing living rooms and balconies. At present, it is estimated that the vast majority of apartments within this complex are capable of receiving 2 hours direct solar access to primary living rooms and adjoining open space at midwinter.

The following summarises the impacts of the proposed development on those apartments at midwinter by comparison to the DCP controls:

- 12 apartments receive 2+ hours direct solar access and the proposal does not change this situation;
- 8 apartments receive 1.5 hours direct solar access and the proposal does not change this situation;
- 6 apartments receive 1 hour direct solar access and the proposal will reduce access to these apartments to 45 minutes; and
- 12 apartments receive 45 minutes direct solar access and the proposal will reduce access to two of apartments to 30 minutes.

Accordingly, a total of 8 of the 276 apartments in the complex (i.e. 2.8%) will experience a minor reduction in direct solar access and the proposal is consistent with Objective 3B-2 of the ADG which permits a reduction of up to 20% where an adjoining property currently does not receive the required hours of solar access.

4.3.4 Traffic and Parking

As discussed within this assessment report, the alternate access arrangements proposed are supported by Council's Traffic Engineers and the RMS on the basis that a condition is imposed restricting the Walker Street access to left-in/left-out only. A condition in this regard is recommended at **Appendix 1**.

Council's Officers are also satisfied that the quantum and layout of car parking and loading is acceptable subject to several conditions requiring deletion of small cars spaces in the recreation centre carpark, allocation of car spaces for the childcare drop-off/pick-up and minor layout adjustments to accord with the prevailing Australian Standards.

Furthermore, subject to conditions recommended at **Appendix 1**, the proposal provides for a satisfactory number of resident, resident visitor and non-residential bicycle car parking spaces.

4.4 Suitability of the Site for Development

Pursuant to Section 4.15(1)(c) of the EP&A Act, the Site is considered to be suitable for the proposed development as it has been specifically identified in the LEP and DCP for a recreation centre and associated land uses with residential apartments in two tower forms above, all in close proximity to public and private transport infrastructure.

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In addition, the documentation submitted with the DA demonstrates that all essential services and infrastructure are, or can be made readily available to the Site and the design incorporates sufficient physical capacity for the necessary infrastructure.

4.5 Submissions

Pursuant to Section 4.15(1)(d) of the EP&A Act, the following subsections consider any submissions made in accordance with the Act or Regulation.

4.5.1 Community Consultation

The proposal was publicly notified for 28 days from 10 January 2018 and one (1) public submission was received objecting to the two towers of residential above the recreation centre on the basis of overcrowding on the Rhodes peninsula. As discussed within this assessment report, the proposal is generally in accordance with the form of development envisaged for this Site in the LEP and DCP and environmental impacts have been managed by the design or can be satisfactorily managed via conditions of development consent.

4.5.2 Internal Referrals

Engineering (Traffic)

See **Section 4.3.4**.

Engineering (Stormwater)

The stormwater design has been assessed by Council's Engineers and is considered to be satisfactory subject to standard consent conditions which are included at **Appendix 1**.

Waste Management

The waste management aspects of the proposed development have been assessed by Council's Waste Management Officers and are considered satisfactory subject to consent conditions which are included at **Appendix 1**.

4.5.3 Public Agency Consultation

The proposed development requires the concurrence of Sydney Trains and was referred to other agencies for comment as required by legislation and/or Council's standard practice. The following subsections provide a summary of the responses received from relevant agencies.

Sydney Trains

The DA was referred to Sydney Trains (which has been delegated the concurrence functions of RailCorp) as the proposal is on land within 25 metres (measured horizontally) of an existing rail corridor.

As discussed in **Section 4.2.2**, Sydney Trains has provided concurrence to the proposal subject to Deferred Commencement conditions relating to further geotechnical and structural investigations and operational conditions relating to construction management practices. These conditions have been included in the conditions at **Appendix 1** of this report.

NSW Roads and Maritime Services

The DA was referred to the RMS as the proposal entails a development with over 300 dwellings and car parking in excess of 200 spaces.

The RMS has provided comments (see **Appendix 7**) with the key requirement being restricting the Walker Street access to left-in/left-out. The RMS requirements are included as recommended conditions of consent at **Appendix 1**.

Ausgrid

The DA was referred to the Ausgrid as the proposal entails removal of the existing electricity kiosk, distribution poles and overhead transmission lines in Marquet Street, excavation in

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close proximity to existing electricity assets and undergrounding of power lines. Ausgrid did not respond to Council's referral.

Notwithstanding, Council's standard conditions are recommended with regard to electricity infrastructure and a requirement for undergrounding of transmission lines along the site frontages as per the PA for the Site.

4.6 Public Interest

In accordance with Section 4.15(1)(e) of the EP&A Act, the consent authority is required to consider whether the proposed development is in the public interest.

The public interest is an overarching requirement which includes consideration of the matters discussed in this report. Implicit to the public interest is whether the proposed development adequately responds to and respects the desired outcomes expressed in relevant EPIs and DCP and whether, on balance, the impacts of the development can be appropriately mitigated or managed.

The proposed development is considered to be in the public interest as it will provide for a well-designed mixed use development that incorporates significant public infrastructure, generally in accordance with the provisions of the LEP, DCP and ADG, whilst minimising adverse environmental impacts.

5 Conclusion

The application seeks approval for the demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), centre-based child care facility, medical centre, basement parking for 583 cars and stratum subdivision into three lots at 34 Walker Street, Rhodes.

The proposed development has a Capital Investment Value of approximately \$247 million and includes a community facility with a CIV of more than \$5m and is deemed to be regionally significant development pursuant to Schedule 7(2) and Schedule 7(5) of *State Environmental Planning Policy (State and Regional Development) 2011*. Accordingly, the Sydney Eastern City Planning Panel is the determining authority pursuant to s4.5(b) of the EP&A Act.

The proposal is permissible with development consent in the B4 Mixed Use Zone under LEP 2013 and is consistent with the objectives of that zone. The proposal complies with the height of buildings and FSR development standards under LEP 2013 and is consistent with the other relevant provisions of the LEP.

The proposal has been assessed as being consistent with the Design Quality Principles of SEPP 65 and generally consistent with the design criteria of the ADG with the non-compliances relating to building separation and private open space considered acceptable in this instance.

With respect to *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, insufficient details have been provided and accordingly, consent cannot be granted for that part of the proposal at this time.

Subject to conditions of consent, the proposal complies with the relevant provisions of the other relevant State Environmental Planning Policies.

The proposal is considered to be generally consistent with the Rhodes West Development Control Plan 2015 with the non-compliances relating to vehicular access, provision for laneways and tower building depths considered acceptable in this instance subject to conditions of consent.

The public submission and the agency referrals in respect of the proposed development have been assessed and it is considered that the proposal is satisfactory subject to conditions of consent or that the submissions raised matters that are not for consideration pursuant to Section 4.15 of the EP&A Act.

Accordingly, it is recommended:

*THAT the Sydney Eastern City Planning Panel grant Deferred Commencement consent to Development Application No. DA2017/0544 for demolition of existing structures, vegetation removal and construction of a shop-top housing development comprising 400 apartments, commercial space, community centre, recreation facility (indoor), medical centre, basement parking and stratum subdivision into three lots at 34 Walker Street, Rhodes, being Lot 101 in DP 624798, pursuant to Section 4.16(1)(a), 4.16(3) and 4.16(4)(b) of the Environmental Planning and Assessment Act, 1979 subject to the conditions of consent detailed at **Appendix 1** to this report.*