

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSEC-164
<b>DA Number</b>	DA2021/0301
<b>LGA</b>	<b>Canada Bay Council</b>
<b>Proposed Development</b>	Demolition of an existing multi storey car park and construction of a 5-storey commercial office building comprising the Hewlett Packard Enterprise Headquarters, along with basement parking, Improvements to the existing hardstand car parking area, site landscaping, and public domain works to Blaxland Avenue.
<b>Street Address</b>	410 Concord Road, Rhodes - Hewlett Packard Site
<b>Applicant/Owner</b>	Saul Moran/ Hewlett Packard Australia Pty Ltd
<b>Date of DA lodgement</b>	8 November 2021
<b>Total number of Submissions</b> <b>Number of Unique Objections</b>	<ul style="list-style-type: none"> <li>• [6]</li> <li>• [6]</li> </ul>
<b>Recommendation</b>	<b>Refusal</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Clause 2, Schedule 7 of the SRD SEPP
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• Canada Bay Local Environmental Plan 2013</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p>Access report</p> <p>Acid sulfate soils report</p> <p>Acoustic report</p> <p>Arborists report</p> <p>Architectural Plans (prepared by Fitzgerald and partners, dated 19 OCTOBER 2021 DEVELOPMENT APPLICATION DA SUBMISSION ALL Issue A.)</p> <p>BCA Performance Requirements Compliance</p> <p>Building Code of Australia Assessment</p> <p>Civil Engineering Plan</p> <p>Clause 4.6 variation request</p> <p>Contamination / remediation action plan</p> <p>Cost estimate report</p> <p>Ecologically Sustainable Development Report</p> <p>Fire safety upgrade report</p> <p>Geotechnical report</p> <p>Heritage impact statement</p> <p>Noise and Vibration Impact Assessment</p> <p>Statement of Environmental Effects</p> <p>Survey Plan</p>

	Stormwater Strategy Report and Civil Plans Traffic Impact Assessment Landscape plan
<b>Clause 4.6 requests</b>	Please list: <ul style="list-style-type: none"> <li>• CBLEP2013</li> <li>• Clause 4.4-Height</li> <li>• B7 Zone</li> </ul>
<b>Summary of key submissions</b>	<p>Unsatisfactory pedestrian connections.</p> <p>Construction impacts – maintaining the pedestrian link between 1 Homebush Bay Drive and Rhodes Train Station through the construction and on-going phases of the proposed development.</p> <p>Lack of information relating to finished ground levels and interface between the proposed development and existing commercial building directly south of the site, known as Building C at 1 Homebush Bay Drive, Rhodes.</p> <p>Overshadowing (setbacks and non-compliant height of the scheme.)</p> <p>The reduced number of parking spaces with the proposed development, non compliance with car parking control and impact upon availability of other car spaces within the locality.</p> <p>The proposed building height exceeds the LEP maximum, and height of the nature proposed should be the outcome of a strategic planning process (a planning proposal supported by a masterplan) which allows for appropriate consideration of its strategic context and the site as a whole and its relationship with the surrounding development.</p> <p>Potential loss of views that may be obstructed without a view assessment.</p> <p>Insufficient setbacks of the proposed building to the south</p>
<b>Report prepared by</b>	<b>Leonie Derwent</b>
<b>Report date</b>	13 July 2022

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

#### 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? **Yes**

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions* **Not applicable**

#### Conditions

Have draft conditions been provided to the applicant for comment? **No**  
*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*

## 1. BACKGROUND

The subject site currently accommodates two commercial office buildings which are currently tenanted by Hewlett-Packard Enterprises Headquarters (HPE). These two commercial buildings were constructed in 1988 together with a multi level carparking structure which sits along the western boundary of the site and accommodates 712 cars. There is also an at grade carpark on the northern side of the site.

### **Initial Pre DA Advice**

On the 13 January 2021 a Pre Development Application (Pre DA) meeting was held with Shannon Anderson – Statutory Planning Manager to discuss the redevelopment of the site to include the demolition of the existing multi storey carpark and the erection of a new 9 storey commercial office building with basement parking. The new building would be the Hewlett Packard Enterprises (HPE) Headquarters. The proposal also included roadworks, alterations to the existing at grade carpark and landscaping of the site.

At this meeting, Council indicated that the proposal could not be supported as a Development Application (DA) was not the appropriate planning pathway given the extent of variation sought to the height of the building and the referencing of this proposed building as the first stage of a redevelopment of the HPE site. A Planning Proposal was the most appropriate planning pathway.

### **DA2021/0025**

On the 11 February 2021, a DA was lodged. (DA 2021/0025). The application sought development consent for the following works:

*Demolition of an existing multi storey car park and construction of a 9-storey commercial office building comprising the HPE Headquarters, along with basement parking, improvements to the existing hard stand car parking area, site landscaping.*

Further information was sought from both Sydney Trains and TfNSW. The additional information which was sought included but was not limited to a construction methodology plan, a Blowout Assessment, numeric modelling, SIDRA modelling for intersections and swept path assessments.

On the 17 March 2021, the proposal was considered by the Council's Design Review Panel (DRP). The DRP raised several concerns relating to the Proposal. The key matters raised included:

- The significant departure from the building height standard was not supported. A building height of 28m applies to the site and a building of 47.3m was proposed.

- The planning pathway – a Planning Proposal was the most appropriate first step given the significant departure from the building height standard. Further, the application included discussion and justification of the proposal based upon the DA being the first stage of a broader masterplan for the site. Given the context of this site within the Rhodes peninsula and within the Rhodes Business Park, a masterplan for the site in the form of a Planning Proposal should be considered prior to a major DA. In particular, this would establish heights, uses and access and connectivity issues as they related to the site and the remainder of the Business Park zoned land on the eastern side of the Railway line.
- The proposed elevated building form, due to the building being established at the top of the site where ground levels were highest. This however posed problems with how the building would connect into the remainder of the site which was lower.
- Carparking numbers.
- General Design Issues including the location of the loading dock in relation to pedestrian flows, the internal design allowing for future lift wells (building appeared to be designed as a future podium) and poor amenity of the pedestrian and cycle flows through the rear of the site, adjacent to the railway line.

The DA was notified to the community and objections were received. The main issues were excessive height that would interrupt existing views and issues relating to the inappropriateness of the DA without an approved Masterplan in place given that the DA was submitted as a first stage in an overall redevelopment of the site.

Council advised the applicant that it would not accept amended plans in respect to the proposal given the large number of issues which needed to be addressed.

The DA 2021/0025 was subsequently withdrawn by the applicant on the 26 August 2021.

### **Planning Proposal**

Although not directly relevant to the assessment of the subject DA, a planning proposal relating to 410 Concord Road, Rhodes was received on 10 March 2021.

The planning proposal sought to amend the Canada Bay Local Environmental Plan 2013 to rezone the site from B7 Business Park to B4 Mixed Use, increase the maximum building height from 28m to 218m and increase the maximum floor space ratio from 2.3:1 to 8.06:1.

The planning proposal was found to lack strategic merit due to inconsistency with adopted plans and strategies and site-specific merit due

to local and precinct-wide impacts by the Canada Bay Local Planning Panel and Council Officers.

The planning proposal did not proceed to public notification and was withdrawn on 15 June 2021. It is therefore not a matter for consideration as part of the assessment of this DA.

#### **Pre Lodgement Meeting for current DA**

A pre lodgement meeting was held on the 22 September 2021 with Shannon Anderson – Statutory Planning Manager.

The proposal had been amended to lower the overall building height to 31m, reducing the Gross Floor Area (GFA) by approximately 7000sqm and subsequently reducing carparking numbers. The location of the building remained at the top of the site (western end of the site) with ground levels commensurate with those of the previous DA.

Council advised the applicant that the issues of building height, elevated ground levels and relationship of the proposed site levels and the existing HPE building had not been satisfactorily addressed. Connectivity through this site remains a key concern.

#### **DA2021/0301- Current Development Application**

This DA was lodged on the 4 November 2021 and notified to surrounding owners and occupiers with six submissions received objecting to the proposal.

A site inspection was convened 29 March 2022 with the applicant's planner and architect and council staff. At this site meeting matters relating to vehicle and pedestrian access to and around the proposal were discussed.

## **2. THE SITE AND ITS CONTEXT**

### **Rhodes Peninsula**

The Rhodes peninsula is characterised by high-density apartment living on the western side of the railway line with some lower density housing in Rhodes East. Also on the western side of the railway line is the Rhodes Shopping Centre and office precinct which accommodates Rhodes Waterside Shopping Centre featuring major retailers such as IKEA, Coles, Bing Lee and Reading Cinemas and a commercial tower.

The subject site is set within an area of the Rhodes Peninsula which is located on the eastern side of the railway corridor. It is known as the Rhodes Business Park which is bounded by the railway line to the west, Mary Street East to the north, Concord Road to the east and Homebush Bay Drive to the south. Directly to the south of the subject site (410 Concord Road) is the Rhodes Corporate Park. It comprises several

freestanding commercial buildings set within a landscaped setting and internal roadways which access the site from Concord Road. The Rhodes Corporate Park together with the subject site (410 Concord Road) is zoned B7 (Business Park). Refer to Figure 1.

From a strategic perspective, the vision for the Rhodes Business Park is to maintain employment lands. The site does not form part of the Draft Rhodes Place Strategy lands.



**Figure 1 – site in the context of the Rhodes peninsula**

### **The Site**

The site is known as 410 Concord Road. It is legally described as Lot 12 in DP875656. The site has an area of 36,670sqm.

The site is developed with two (2) commercial office buildings which were constructed in the late 1980s and serve as the Australian headquarters of Hewlett Packard Enterprise. As shown on the aerial view of the site (Figure 1), the two (2) commercial office buildings are centrally located on the site with a multi-storey carpark located on the western side of the site adjacent to the site's western boundary with the railway line. To the north of the buildings is an at grade carpark which is set within a landscaped setting. To the east of the buildings is landscaped area which separates and softens the built form when viewed from Concord Road.



Vehicular access into the site is provided from Mary Street East.

The topography of the site generally falls from the western boundary down to Concord Road.

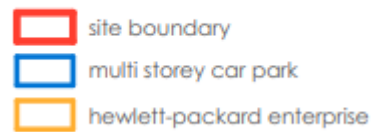
A detailed survey plan forms part of the application. There are various easements which the site is affected by including an easement to drain water over Lot 12 in DP875656 (X581284) shown as 'D' on the submitted survey plan, which benefits the site to the south (RCP). This easement is located inside the western boundary of the site (top of the site) and is developed with a pathway. Although this pathway (which connects the Rhodes Railway Station through the site and into The Rhodes Corporate Park and out onto Concord Road) is not dedicated for public use, this pathway has served the public purpose since the Business Park was established in the 1980s. No details have been lodged with the application to determine how this would be managed if site levels in this area were significantly raised as proposed.

On the opposite side of Concord Road is Brays Reserve

To the immediate south of the site is Rhodes Corporate Park which is accessed by foot via a route across the HPE site along its western boundary. The two sites share a vehicular connection via the basement of Rhodes Corporate Park. There are two routes across the train line connecting east and west Rhodes. One to the north of the site at the train station and one to the south from Rhodes Corporate Park to Rhodes shopping centre. Refer to Figures 2 and 3.



**Figure 2 – the site**



**Figure 3 – the site shown within the Rhodes Business Park**  
Source: Plans prepared by Fitzpatrick and Partners

### 3. PROPOSED DEVELOPMENT IN DETAIL

The development application proposes the demolition of selected structures, excavation, and construction of a commercial office building development comprising the following:

- Partial demolition of the existing multi storey car park and site preparation work.
- Construction of a 5-storey commercial office building comprising 9,140m<sup>2</sup> of gross floor area and a maximum building height 31metres.
- Three food and drink spaces located on the ground floor.
- Provision of 647 total car spaces across the site including:
  - 228 spaces within four basement levels below the new commercial office building,
  - 218 spaces within the multi deck car park directly to the north of the commercial building which is to be partially demolished as part of the proposed works, and



- 201 spaces within the existing at grade car parking at the northern portion of the site which is to be reconfigured to a more formalised car parking arrangement.
  - The proposal results in a decrease of 65 parking spaces across the site.
- End of Trip Facilities located within the 1st basement level accommodating 146 bike spaces for staff and 58 spaces for visitors.
- Raising the current site level from RL11.6 at the southwestern boundary, and RL 9.5 at the south eastern boundary to RL15.8 to align the site levels at the southern portion of the site with the adjoining Rhodes Business Park.
- A new staircase is proposed from the raised ground level to the ground level of the existing HPE buildings.
- Consolidation of the current separated ingress / egress vehicular access point at Mary Street East into a single vehicular access point.
- The creation of a westerly aligned vehicle road to be known as Blaxland Avenue and a new pedestrian and bike pathway which runs parallel to the roadway. The new pedestrian and bike pathway has been designed to replace the existing pathway which currently runs along the western side of the site and which forms part of the connection between Rhodes railway station, the subject site, The Rhodes Corporate Park through to Homebush Bay Drive. The new road and pathway system are raised above the existing ground levels.
- The removal of 140 trees, the retention and protection of 57 trees, including 5 trees to be transplanted from within the site.
- Site landscaping works including landscaping along Blaxland Avenue, outdoor roof terrace and a civic lawn space adjoining to the north of the new commercial office building.
- Indicative signage zones.
- Retention of the existing HPE office buildings on site.

### **Façade Design and Materials**

A schedule of materials and finishes is contained within the Architectural Drawings at Appendix B. Precast concrete and off-form concrete in a warm sandstone and light grey colour is proposed to the building façade. Green walls are integrated on the eastern and north-west facing terraces to soften the façade. Floor to floor aluminium battens in satin light bronze anodised finish are proposed to the terrace spaces.

## **Public Domain and Landscaping**

The proposal includes several landscaped elements including:

- Tree planting along the western side of the proposed Blaxland Avenue to provide screening of the building to the railway line. These trees will essentially replace landscaping which is already in place along this boundary.
- Construction of the “Jean Wailes Plaza’ which will act as the forecourt to the building and interior tree planting within the building lobby.
- Rearrangement of the at grade carpark at the northern end of the site and removal of trees to be replaced with a more formalised carpark which will be relandscaped.
- Green roof over the entry to the basement car park and hanging planters. Verandah gardens and vertical gardens to the building facade.
- Rooftop terrace including tree planters and non-accessible rooftop native landscaping.

## **Blaxland Avenue**

As already outlined, the proposal includes the creation of a westerly aligned vehicle road within the site, to be known as Blaxland Avenue and a new pedestrian and bike pathway to replace the existing pathway which runs along the western side of the site. These structures are raised above the existing ground levels and do not propose a continuous accessible path of travel without the necessity to connect into the adjoining site (Rhodes Corporate Park).

A pedestrian link is currently provided along the western boundary of the site providing a continuous link from Rhodes Station to the north, through Rhodes Business Park to Homebush Bay Drive to the south.

This link is not subject to an easement however this pathway has served as a public pathway and part of the regional bike network for a considerable number of years and is affected by an easement to drain water in favour of the site to the south (RCP).

## **Development details**

Site Area:	34,670sqm
Total GFA of proposed building:	9,140sqm
Total proposed GFA of the site	28,956sqm
Total proposed FSR of site	0.84:1
Proposed building height	31m /5 Storeys
Total Carparking proposed	674 spaces

#### 4. PUBLIC SUBMISSIONS

In accordance with Council's Notification Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposal and invited to comment.

The notification generated six (6) submissions objecting to the proposal. The contents of all submissions are summarised and considered below. There have been three (3) submissions received from owners of the surrounding commercial lands as follows:

Altis Property Partners Pty Ltd (Altis)

Property location: 3-5 Rider Boulevard, Rhodes, which is situated to the west of the site, on the opposite side of the railway line).

Frasers Property Australia (Frasers)

2/1C Homebush Bay Drive, Rhodes

Property location: Frasers is the major landowner of the Rhodes Corporate Park (RCP) immediately to the south of the site.

Mecone Pty Ltd (Mecone)

Management as Responsible Entity for Dexis Industria REIT (Dexis Property Group).

Property location: Buildings A and C, Rhodes Corporate Park

#### **Height**

*(Submission from Altis)*

The proposed building height exceeds the LEP maximum, and height of the nature proposed should be the outcome of a strategic planning process (a planning proposal supported by a masterplan) which allows for appropriate consideration of its strategic context and the site as a whole and its relationship with the surrounding development.

**Comment:** Agreed. This is further detailed within this report.

**Impact on view sharing**

*(Submissions from Altis and Wei Lin Yeong 403/7 Rider Boulevard, Rhodes)*

The excessive building height proposed will unreasonably impact on the iconic views from Altis' site and other sites within the surrounding area. Views to the water and City is one of the key attractions of 3-5 Rider Boulevard to potential tenants.

**Comment:** The view analysis has not considered the views gained by other commercial tenants. Views of other commercial buildings should be considered.

**Strategic planning implications for Rhodes Business Park and the wider Rhodes area**

*(Submissions from Altis, Frasers and Mecone)*

The following issues were raised in regard to the strategic planning implications of approving a stand-alone building without a Masterplan in place:

The DA is that it should be considered alongside Council's review of the Canada Bay Local Strategic Planning Statement Priority 8.2 to Monitor Rhodes Business Park (410 Concord Road, Rhodes) for five (5) years to inform an updated Employment Lands Study.

Strategic planning for this site needs to be undertaken in consultation with Rhodes Corporate Park, which would be highly beneficial to the landowners and critical to the success of the area.

The DA should be revisited following such a strategic master planning process.

Developing a single isolated building outside of the planning controls and ahead of this process creates significant risk of undermining or adversely impacting the future master planning process for both this site and the Rhodes Corporate Park in the future.

**Comment:** Agreed. The documentation which has been submitted as part of this application clearly states that this proposal is the first stage of an overall Masterplan for the site. If this stand-alone DA was approved, this site has the potential for an additional 50,000sqm of GFA. It is therefore in the public interest and in the interests of other landholders in the immediate area to consider a masterplan as a first step towards the redevelopment of new commercial development on the site. Indeed, the documentation states quite clearly that *"The proposed building adds approximately 9,140sqm (GFA) of A-Grade office space to the site with*

*potential for an additional 34,510sqm (GFA) addition on top in the form of a potential tower which will be subject to future approvals.”*

### **Pedestrian Connectivity and Pedestrian Access to Site.**

*(Submissions from Altis, Frasers and Mecone)*

Depending on the level difference between the proposed development and Building C, the existing through-site link may be inaccessible. As noted above, further information in relation to this part of the redevelopment of the site is requested to determine the level difference and ground level treatment between the proposed commercial building and Building C. Currently, the pedestrian link is relatively flat from Rhodes Train station, with a slight ramp extending from the link to RCP. It is unclear how the transition between Building C and the proposed development will be treated.

The proposed pedestrian connectivity represents a lost opportunity to create a central pedestrian spine through the subject site that connects through Rhodes Corporate Park and delivers key strategic planning objectives to improve connectivity between these areas and the Rhodes Train Station.

The proposed location for pedestrian connections is lacking in activation, safety and amenity and is constrained by the rail line that defines the western boundary of the subject site.

An appropriate solution to the limited pedestrian connectivity through this site and its surrounding area is a matter that could be better dealt with in consultation with Council and surrounding landowners. This is critical to achieve the Eastern City District Plan’s actions to:

*‘50. Strengthen Rhodes through approaches that:*

*g. create a connected walking and cycling network within the precinct, to regional links and where possible along river foreshores’; and*

*‘38. Provide access to jobs, goods and services in centres by:*

*f. improving the walkability within and to centres’.*

Furthermore, the Canada Bay Local Strategic Planning Statement identifies the need to improve active transport connections within the Rhodes Strategic Centre including to:

- Concord Hospital;
- Rhodes East and West; and
- Rhodes Corporate Park;
- Rhodes Railway Station and the future ferry wharf.

In addition, Action 1B of Canada Bay’s Local Employment and Productivity Strategy seeks to ‘improve pedestrian connection from Rhodes Corporate Park to future Rhodes East through HP site’. The



proposed development includes insufficient improvements to pedestrian connections to the above locations. A larger scale coordinated effort in consultation with Rhodes Corporate Park and other landowners would benefit delivering the desired pedestrian connections in the relevant strategic plans.

**Comment:** Agreed. The existing pathway serves the public purpose by providing a direct accessway between the Rhodes Railway station and through to Homebush Bay Drive (and beyond). The proposed pathway is not as direct and relies on connection into the Rhodes Corporate Park to provide access out into Homebush Bay Drive. Although not sufficiently detailed and dimensioned, the proposed pathway/cycleway is confined between a wall which runs parallel to the railway line and a median strip and planting to separate pedestrians and cyclists from the vehicles, including heavy vehicles. It appears to be approximately 3 metres wide which, together with the change of route and reliance with connection into the Rhodes Corporate Park, does not serve the public interest. In addition, an easement to drain water is located along the western edge of the site in the location of the existing pathway and no details are provided as part of this application as to how this would be managed if site levels were significantly raised.

**Proposed staff car parking entry from Alfred Street**  
*(Submission from Frasers)*

The staff car parking entry from Alfred Street is not supported. Currently, majority of the access to all the car parking areas for the HPE site is provided along Blaxland Avenue and, therefore, the additional car parking entrance via Alfred Street and reliance on the connection to the proposed building basement from within Rhodes Corporate Park for staff parking would drastically intensify the use of the Alfred Street intersection at Concord Road and the internal roadways at Rhodes Corporate Park.

The Traffic and Transport Impact Assessment report accompanying the DA2021/0301 dated 22 October 2021 prepared by Stantec note the current average Level of Service as satisfactory however when the traffic movements are analysed in more detail, the Alfred Street intersection is currently performing at Level of Service F in both AM and PM, meaning extra capacity is required with extreme delays and major treatment required to the Alfred Street intersection (refer pages 22-23).

The report further notes that modest improvements to the intersection performance would be required however, in addition to this, it does not consider what the capacity and impacts the additional traffic entering and existing the site from Alfred Street on the Rhodes Corporate Park internal road network whilst maintaining safety to pedestrians and cyclists.

**Comment:** Advice is yet to be received from TfNSW

## **Parking**

*(Submission from Mecone)*

The proposed development seeks to demolish part of the existing car park and construct a basement carpark and reconstruct the existing at grade parking. The proposed development will result in a total of 65 parking spaces being lost. This has the potential to impact Rhodes Corporate Park with employees or visitors of 410 Concord Road parking in Rhodes Corporate Park rather than the site of the proposed development. It is requested the proposed development provide the same number of parking spaces for the proposed development as is existing on the site, particularly noting the additional demand the proposed commercial building will bring to the site.

**Comment:** Agreed. This issue has been raised by Council's Traffic Engineer.

## **Ground Levels**

*(Submission from Mecone)*

The proposed development seeks consent to raise the natural ground level of the site by up to 4.2 metres in the southwestern corner of the subject site and 6.3 metres in the south eastern corner. The plans submitted as part of the proposed development do not provide sufficient detail to determine the level difference between Rhodes Corporate Park and the proposed building. It is requested further details be provided by the applicant/architect to clearly illustrate the existing and proposed ground levels at the boundary between Building C and the proposed development. It is also requested the ground levels be matched between the two sites to maintain the suitable pedestrian thoroughfare between 1 Homebush Bay Drive and Rhodes Train Station, which is consistent with one of the key objectives of the B7 zone.

**Comment:** Agreed. As previously discussed, how the easement to drain water would be managed given the significant raising of site levels, has not been dealt with.

## **Overshadowing to Building C**

*(Submission from Mecone)*

Building C is an existing six-storey commercial building experiencing minimal overshadowing from the existing car park to the north. The combination of increased natural ground level and construction of a five-storey commercial building would result in overshadowing of Building C.

From a review of the shadow diagrams, it is unclear which parts of Building C will be affected by overshadowing. The shadow diagrams provided identify Building C as being affected most of the day on 21 June.

**Comment:** Agreed overshadowing impacts will be compounded by this proposal and inadequate details have been submitted to demonstrate the full extent of shadow cast by the proposal.

### **Dilapidation and Construction Impacts**

*(Submission from Mecone)*

The construction of four levels of basement parking associated with the proposed development to the north has the potential to impact the structural integrity of Building C. It is requested a dilapidation report be prepared and signed off by Dexu prior to commencement of construction works to determine the resultant impacts arising from construction of the proposed commercial building.

**Comment:** Agreed.

### **3D Views**

*(Submission from Mecone)*

The 3D views prepared by Fitzpatrick + Partners are heavily focused on the northerly aspect of the proposed development. There are no 3D views provided by the architect to illustrate the perspective from the south with the interface between Building C and the proposed development.

**Comment:** Agreed. This issue was raised with the applicant's representative on a site visit. No further details have been provided.

### **Setbacks**

*(Submission from Mecone)*

The setbacks established in the site-specific DCP are generally merit based stating "set-backs shall be provided to present a "buildings in parkland" image consistent with the "business park "nature of the zoning". The area available for redevelopment of the site is substantial and the building is located 12 metres from Building C. It is considered the location of the proposed building is not the most suitable and consideration should be given to a more appropriate location, or increased setback to the southern boundary. This is particularly the case given the impacts described above in respect to overshadowing, outlook, and potential privacy impacts between floors of buildings between the proposed development building A and C of the Dexu site.

### **Land Use**

*(Submissions from Philip Wu 1502/7 Rider Boulevard, Rhodes and Helen Li 203/7 Rider Boulevard, Rhodes)*

That development be limited to 5 stories and that the use remains as business park and not be converted or used in conjunction with residential use so that the area is not over developed.

**Decrease in value and construction issues**

*(Submission from Wei Lin Yeong 403/7 Rider Boulevard, Rhodes)*

Property values are not a relevant planning consideration. However, it is noted for the reasons outlined in this report that the proposed development is contrary to relevant planning controls and is not supported.

In relation to construction issues, were a development consent to be granted, suitable conditions could be placed on any consent relating to noise, construction methods and hours traffic management plan and the like.

**5. ASSESSMENT UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**5.1. Environmental Planning Instruments [Section 4.15 (1) (a) (i & ii)]**

**5.1.1. State Environmental Planning Policies**

**State Environmental Planning Policy (Resilience and Hazards) 2021**

In Accordance with Clause 4.6 (1) Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in it contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Council's Environmental Health Officer Senior has raised no objections to the proposal on the basis of contamination provided that a Remedial Action Plan (RAP) is submitted to the Council prepared by a suitably qualified and competent environmental consultant in accordance with the NSW Government Office of Environment and Heritage, Guidelines for Consultants Reporting on Contaminated Sites and Planning NSW Guidelines "Managing Land Contamination Planning Guidelines"

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 Vegetation in non-rural areas applies to non-rural areas of the State inclusive of the subject local government area and aims to (a) protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The proposed works involve the removal and/or impact upon existing vegetation including the removal of 140 established trees. Although many

new trees will be reinstated on the site, the loss of existing vegetation is unnecessary and stems from the desire to raise ground levels.

Council's Senior Landscape Architect has commented that as the Design Review Panel has suggested that a complete redesign be investigated, that comment on the landscape proposal is not warranted at this time.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

This application has been referred to TfNSW and Sydney Trains. No formal advice has yet been received however additional information was sought by both agencies.

**State Environmental Planning Policy (Planning Systems) 2021**

Referred to the Sydney Eastern City Planning Panel for determination due to the cost of the proposal.

**State Environmental Planning Policy (Industry and Employment) 2021**

The proposal includes signage locations on the building's facades. Given the broader issues which have been discussed within this report, a detailed assessment of the signage has not been undertaken.

*5.1.2. Local Environmental Planning Instruments*

The proposed development, defined as Commercial Premises is permissible with the consent of Council, within a B7 Business Park zone under Canada Bay Local Environmental Plan 2013. The objectives of the zone are considered below:

***Zone B7 Business Park***

***1 Objectives of zone***

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To encourage the erection of buildings suited to development requiring large floor areas, and to discourage small scale uses unless they are of an ancillary or service nature.*
- *To facilitate public access throughout the zone.*



The proposed commercial office building complies with the above objectives with the exception of facilitating public access throughout the zone. It does not facilitate public access to a greater degree than currently exists and relies on the connection of the new pathway/cycleway into the adjacent site to do so. Given the number of concerns raised by the adjoining commercial landowners specifically with regard to the inability to accurately determine the proposed linkages and concerns with the need



to uphold strategic objectives in regard to improved access between sites, the proposal is unacceptable in respect to this objective.

Following is a summary table indicating performance of the proposal against relevant statutory standards of the CBLEP:

**Table 1: Canada Bay LEP**

Requirement	Proposed	Compliance
<b>Cl 4.3 – Height of Buildings</b>		
<p>28m</p> 	<p>31m measured from existing ground level (RL. 9.3) to the top of the roof plant (RL. 40.3).</p>	<p>No – 3 metre breach to height control. (Cl 4.6 variation submitted)</p>
<b>Cl 4.4 - Floor Space Ratio (FSR)</b>		
2.3:1	0.84:1	Yes
<b>Cl 5.10 - Heritage Conservation</b>		
<p>The site is identified as Local Heritage Item no. I118 referred to as ‘Rhodes Industrial Park – Grounds’, located at the western boundary within the site.</p>  <p>The whole site is mapped as being a local heritage item. The description of the Heritage Item is as a “Large scale landscaped area incorporating trees from former garden of the ‘Braygrove’ estate.</p>	<p>No changes to the lower section of the site near Concord Road however a loss of established landscape from the site.</p>	<p>Yes, given that no changes are proposed to the lower section of the site however the overall landscaped setting of the site will be altered and works to reconfigure the existing at grade car park in the northern portion of the site directly adjoin some of the trees referenced in the heritage listing.</p>

<p><i>Trees from this garden include kauri (c.20m from c.1890), Port Jackson fig (c.13m from c.1920?) and kaffir plum (c.8m from c.1930/40s). Entrance restyled, incorporating former entry gates to 'Braygrove House' (now demolished). Gates no longer recognisable for their true age. Recent landscaping of sweeping lawn area, banks of swamp casuarinas and long band of clipped coast rosemary. Tree planting of spotted gum and plane trees and occasional Port Jackson figs."</i></p>		
<p><b>Cl 6.1 - Acid Sulfate Soils</b></p>		
<p>The site is identified as having Class 5 acid sulfate soils; however, it is located within 500m of Class 2 acid sulfate soils to the east and west</p>		<p>Yes. An acid sulfate soils assessment has been carried out which confirms that the basement works are not proposed to extend below 5 metres AHD and therefore the provisions of Clause 6.1 do not apply to the Proposal.</p>

### Noncompliance with Height standard

The proposed building is non-compliant with the height standard of 28m which applies to the site. A Clause 4.6 variation has been submitted with the application and has been reviewed. In reviewing the proposed development, The DRP also considered the overall height of the building and the minutes state:

1. *The Panel notes that the building height has been lowered by 16.3m compared to the previous scheme, however, still exceeds the maximum building height for the site by 3m or 10.7%.*

2. *The FSR has been reduced to 0.84:1 and now achieves compliance with the maximum site total FSR of 2.3:1, however it is noted that this development is the first stage of a redevelopment of the site into a mixed-use precinct, and the allowable yield will eventually be taken up by future stages across the site.*
3. *Although the proposal has been significantly reduced in bulk and scale, it continues to create an awkward relationship to any future development of a building to the east by setting what would become a future podium at the level of the existing corporate park, which the Panel suggests is too high relative to ground levels around the site's other interfaces. Consequently, the proposal does not integrate well with the existing context but rather tries to establish the basis for a vision that has not yet been determined and may not be realised.*
4. *As previously advised by the Panel, it confirms that any new building proposed for the site, should be designed to have improved relationships with the existing context and the desired character as outlined in current planning instruments.*

There have also been issues raised by the community relating to the obstruction of views and overshadowing and general proximity of a large commercial building to other commercial buildings. The proposal has not adequately addressed these issues as the surrounding commercial uses are not considered to be sensitive users, however within the context of a business park, the surrounding commercial land users should also be considered, especially as the building most directly affected by shadow currently receives good northern light into its commercial spaces.

The additional height which is sought is as a direct result of the raising of the ground levels to align the podium with the adjacent building C within RCP. This connection has not been thoroughly detailed and owners' consent or the agreement of the adjoining landowner has not been sought.

The clause 4.6 variation also makes reference to meeting carparking requirements and use of the rooftop terrace for future residents of the building which appear erroneous.

For the reasons stated above and within this report, the Clause 4.6 variation is not considered to be sufficiently robust in its arguments to justify a variation to the height standard as proposed.

- 5.2. **Draft Environmental Planning Instruments [Section 4.15 (1) (a) (i & ii)]**  
There are no applicable Draft planning instruments to consider at this stage.

5.3. **Development Control Plans, Council Policies or Codes [Section 4.15(1)(a)(iii)]**

The proposed development is affected by the provisions of the Canada Bay DCP - Special Precincts. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

The Special precinct DCP also adopts the controls contained within Part C General Controls and Part E2 Environmental Criteria.

**Canada Bay DCP - Special Precincts.**

**2.12 Rhodes Corporate Park**

**2.12.1 General objectives of the DCP**

- O1 To encourage a high standard of modern business park development;
- O2 To ensure new development complements the existing “Digital” development;
- O3 To provide a range of office and light industrial uses;
- O4 To encourage employment opportunities;
- O5 To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area;
- O6 To encourage the erection of buildings suited to development requiring large floor areas, and to discourage small scale uses unless they are of an ancillary or service nature;
- O7 To provide for site planning and layout which includes landscaped setbacks to major roads and residential areas and modern building forms;
- O8 To enable the grouping of activities and, where practicable, the sharing of facilities;
- O9 In the case of the land zoned B7 Business Park bounded by Concord Road, Mary Street, Homebush Bay Drive and the Main Northern Railway, Rhodes, to ensure that any new development is complementary in scale, siting, form, materials, landscaping and height with the buildings on the eastern side of the Main Northern Railway; and
- O10 To facilitate public access throughout the zone

**Comment:** Many of the relevant objectives are met by the proposed development with the exception of O2, O7 and O10. These are discussed below:

*O2 To ensure new development complements the existing “Digital” development;*

The controls within this section 2.12 of the DCP refer to the “Digital” building. This building has been demolished to make way for the Rhodes Corporate Park which comprises several buildings set within the parkland setting. Alfred Street is now within the Rhodes Corporate Park providing the main entry point into the site from Concord Road.

*O7 To provide for site planning and layout which includes landscaped setbacks to major roads and residential areas and modern building forms;*

The proposed changes to the at grade carpark which is located on the northern side of the site and the creation of a new roadway known as Blaxland Avenue would result in the loss of a significant number of trees from the site and the formalisation of the carpark with a greater impermeable area. Refer to an extract of the documentation in Figure 4 below.



**Figure 4 – Extract of plan showing formalisation of the at grade carpark**  
Source: Plans prepared by Fitzpatrick and Partners

*O10 To facilitate public access throughout the zone*

The proposed accessway along the western side of the site, which would replace the existing walkway is contrary to this objective. The existing pathway which has been used as a public thoroughfare for both pedestrians and cyclists from Rhodes Railway Station through to Homebush Bay Drive would be replaced by an alternative thoroughfare which is not accessible and seeks to use a combination of lifts, stairs and access into the Rhodes Corporate Park as a means to provide access from the Station through to Homebush Bay Drive.

**Table 2: Canada Bay DCP - Special Precincts.**

<i><b>Control</b></i>	<i><b>Standard</b></i>	<i><b>Existing</b></i>	<i><b>Proposed</b></i>	<i><b>Compliance</b></i>
<b>Building Setbacks</b>	C1. Building setbacks shall be provided to present a “buildings in parkland” image consistent with the “business park” nature of the zoning, particularly in relation to	n/a	The location of the building provides insufficient setbacks to the west and to the south.	No



	Concord Road and Alfred Street.			
	C2. A minimum set-back of 15m and an average set-back of 20m to Alfred Street shall be provided. The two standards are intended to provide for stepped or articulated building elevations	n/a	n/a The site does not have a frontage to Alfred Street	n/a
	C3. Buildings should be set-back from Concord Road to achieve a compatible alignment to the Digital building	n/a	The building is located at the rear (western side) of the site and does not alter the frontage to Concord Road	Yes
	C4. The remnant landscaping that was retained within the Concord Road frontage shall be retained.	Informal landscaped areas provided	The area surrounding the at grade carpark on the northern side of the site will be more formalised in design. The sense of parkland will be lost.	No
	C5. Within the setback to the Main North Rail Line the public access /Cycleway required by the original consent to Digital linking Mary Street to Alfred Street shall be identified and timing of construction identified.	n/a	This relates to the Rhodes Corporate Park site however it is noted that the retention of public access and connectivity through the Rhodes Business Park was an important issue to be met at all times in the future.	n/a
<b>Building Height</b>	C6. Building heights should generally be consistent with the existing Digital building and should be related to building siting	n/a	n/a  See discussion above	n/a

	intended to avoid overshadowing of residential property in Alfred Street.			
	C7. Buildings should not exceed a height of 6 storeys above finished ground level and should not exceed the relative levels that are established by the roof heights of the existing Digital buildings.	n/a	As shown on plan DA-044 (Building Section A), the elevated basement level together with the building above will appear as greater than 6 storeys.	No
	C8. The Council may require parts of a building to be of a lesser height so as to avoid overshadowing on residential land.	n/a	n/a	n/a
	C9. The Council may approve where it is satisfied that: <ul style="list-style-type: none"> <li>Any such part of a building is substantially separated from residential land; and</li> <li>The variation in height will contribute to a better form and arrangement of buildings on the site.</li> </ul>	n/a	The siting of the building on the western boundary of the site is inappropriate	No
	C10. Building should be sited, restricted in height or include stepped facades in order to limit overshadowing of residential properties in Alfred Street. In this regard properties should not be overshadowed	n/a	n/a	n/a

	between the hours of 9am and 3pm on June 21st.			
	C11. Council may exclude plant and lift motor rooms and any screening structure, parapet walls and roof top amenities from any consideration of building height, other than shadow effects.	n/a	The LEP definition of height would over ride this consideration of height. While there is plant room on the upper most level, there is also other uses within this floor.	n/a
<b>Building Materials</b>	C12. Building materials and colours and glazing should be selected to achieve compatibility with existing development, without necessarily seeking uniformity. The design intent should be specified in the development application.	n/a	No issue has been raised within the assessment of this DA to the design and materials of the proposed building itself.	Yes
<b>Landscaping</b>	C13.Site landscaping should be generally designed to reinforce the intended “buildings in park” image.	Existing landscaped area is informal and reinforces the intent of this control	As discussed previously, the formalisation of the at grade carpark and loss of mature trees along the western side of the site would be contrary to the intent of this control.	No
	C14. A unified landscaping theme should be applied to the frontages to Concord Road and Alfred Street. It will be necessary to justify any intended interruption to the established theme, either by way of fences, walls and the like or by plant materials.	n/a	n/a	n/a

	C15. Development on the southern part of the site should extend and complement the existing landscaped courtyard in the Digital complex.	n/a	n/a	n/a
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**Table 3: Canada Bay DCP**

<i>Control</i>	<i>Standard</i>	<i>Existing</i>	<i>Proposed</i>	<i>Compliance</i>
<b>C3 Vehicle and bicycle parking rates and bicycle storage facilities</b>				
C3.1 Vehicle Parking	<p>Car parking Office premises: 1 space per 40m<sup>2</sup> of GFA for office premises.</p> <p>Food and drink premises, whichever is the greater of: 1 space per 6m<sup>2</sup> of serviced area, or 1 space per 4 seats.</p> <p>Based on the commercial GFA for the consolidated site 28,957m<sup>2</sup>, 724 car parking spaces must be provided.</p>	712	<p>The provision of 647 does not meet the requirements of the DCP.</p> <p>See note below from Council's Traffic Engineer</p>	No
C3.1 Bicycle Parking	<p>Cafe Bicycle storage facility – 1 per 200m<sup>2</sup> Bicycle parking facility – 1 per 750m<sup>2</sup> Office/commercial Bicycle parking facility – 1 per 25m<sup>2</sup> public area</p>	Not available	146 spaces	Yes

Regarding parking generation, Council's traffic engineer has advised that:

- *Councils DCP – Mixed Use Areas requires a minimum a parking space be provided per 40m<sup>2</sup> for office premises. The development contains*

*28,956m<sup>2</sup> and is hence required to provide 724 parking spaces. It is noted that the Traffic Assessment interprets the Council's DCP to require maximum a parking space per 40m<sup>2</sup>. However, this requirements is minimum not the maximum. Hence the submitted proposal does not satisfy Councils parking requirements for commercial development. If a lower parking rate is proposed it shall be adequately justified by applicant.*

#### **5.4. Likely Impacts of the Development [Section 4.15 (b)]**

##### **Site Levels**

###### ***Public Access and connectivity***

One of the key issues is the levels which have been adopted on the site to place the ground level of the building. The ground levels are proposed to be significantly raised along the western side of the site. The adoption of these raised levels has been justified by the applicant in order to align the buildings ground floor level with the adjacent building within the RCP. However, this aspect of the proposal has not been detailed within the application to the extent that the adjoining landowner is able to discern the proposed connection into their property. Further, this realignment and proposed connection into the neighbouring site would direct both pedestrians and cyclists into the site and then through RCP to exit onto Homebush Bay Drive. Given the radical change to the current pedestrian and cycle path, which is currently a level connection between Rhodes Railway Station, the HPE site, The RCP and Homebush Bay Drive, the proposed changes to this access are unsatisfactory. While there is no formal access requirement over this existing pathway (although there is for the portion of the pathway behind the RCP out onto Homebush Bay Drive), this pathway is heavily utilised by both pedestrians and cyclists and has been so for a number of years. Therefore, the proposal to raise site levels, which increases the overall height of the building and alters the public thoroughfare between Rhodes Station and Homebush Bay Drive is not in the public interest.

Further to the above, the majority of the width of the accessway along the western boundary which is designed to cater for vehicles, pedestrians and cyclists, is allocated to vehicles. While no dimensions are provided on the plans it appears that the shared cycleway and pedestrian pathway is only approximately 3 metres wide. It is shielded from the railway line by a wall. This issue has been raised by the Design Review Panel and surrounding land users concerning establishing altered finished levels and the consequences of these levels in the context of the Business Park lands. With respect to proposed ground levels, the key issues and recommendations of the DRP minutes state:

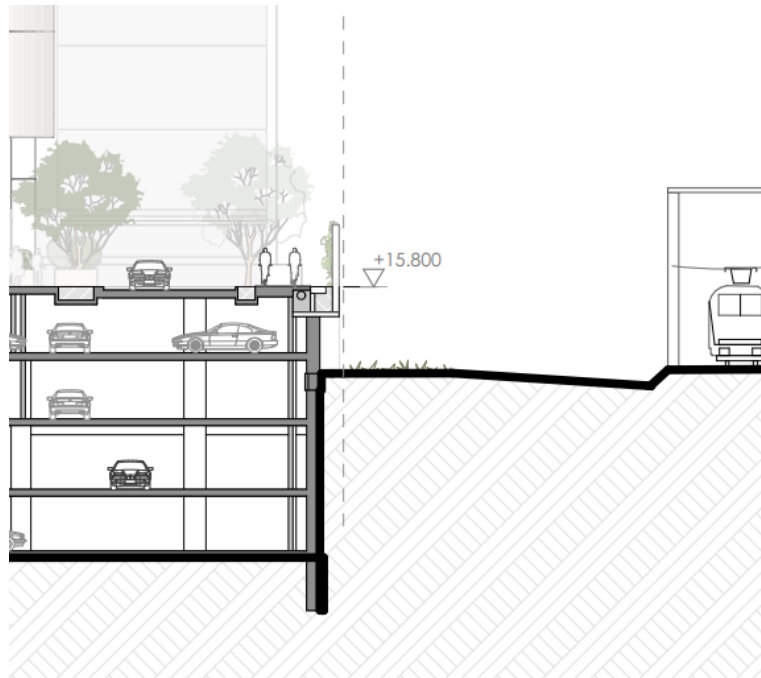
*“Although the proposal has been significantly reduced in bulk and scale, it continues to create an awkward relationship to any future development of a building to the east by setting what would become a future podium at the level of the existing corporate park, which the Panel suggests is too high relative to ground levels around the site’s other interfaces. Consequently, the proposal does not integrate well with the existing context but rather tries to establish the basis for a vision that has not yet been determined and may not be realised. “*

*“ The Panel notes the need for an internal spine road within the site. The proposal and the applicant’s future vision for the site relies on the laneway/road adjacent the railway corridor becoming the primary eastern access road, however for it to reach its full potential and function, it must continue as a public throughfare rather than the currently proposed elevated ramp and dead-end. The adjoining site must be required to conform to this when re-developed. ”*

As shown below in extracts from the documentation which has been submitted as part of the application, the access for pedestrians and cyclists along the western side of the site is not necessarily enhanced by the proposal as the majority of the space is allocated to vehicles. The existing pathway is landscaped on both sides and is separated from vehicles.



**Figure 5** Render showing proposed site levels in respect to the top level of the existing multi level carpark (See Photo at Figure 7)



**Figure 6** Section from submitted plans showing the elevation of the base of the building, roadway and public access

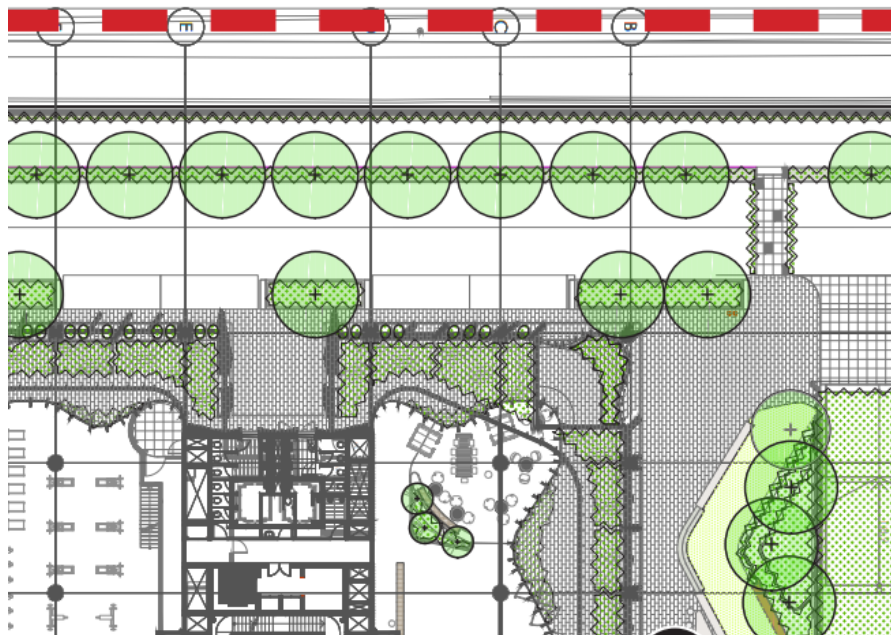


**Figure 7** Existing pathway showing level in relation to the multi storey carpark





**Figure 8** Precedent images from the submitted landscape plan would suggest that a greater width is required to provide decent amenity to both cyclists and pedestrians.  
**Source: Submitted Landscape Plan**



**Figure 9** Extract of landscape plan showing cycle way and pedestrian pathway will be located between the wall running parallel to the railway line and narrow planted median strip which separates pedestrians and cyclists from cars.  
**Source: Submitted Landscape Plan**

### ***Height***

As discussed above, the adoption of levels which are significantly higher than natural ground levels to establish a ground floor level to align with the adjacent building (known as Building C) with RCP results in a building which exceeds the height limit of 28m.

A clause 4.6 variation has been submitted as part of the DA which seeks to justify an overall maximum height of the building of 31m. A maximum height limit of 28m applies to the site. Given the increase in ground levels, the request to exceed the height limit is not supported. Further, and as fully detailed below, the DRP minutes state in respect to height:

### **Lack of Masterplan**

The absence of a masterplan for this site, given the likelihood of this proposal being the first stage in a broader vision has been raised as a concern by Council, the DRP and surrounding landowners. The Design Statement submitted as part of the application clearly states the intention for further major works on this site and to this DA being the first stage of the future masterplan. Future works include the demolition of the existing two commercial buildings which sit at a lower position and level on the site and a tower on top of the proposed building (which would then serve as the podium). It remains a concern that a Masterplan should occur prior to this first stage, including higher finished levels on the western side of the site, being considered.

*“Envisioned as a broader strategy to the provision of pleasant pedestrian environments along the hard edge of the rail corridor this colonnade strategy will extend the full length of Blaxland Avenue in the future.*

*The buildings ground plane provides direct connection to the adjoining Rhodes Corporate Park significantly enhancing the pedestrian experience to the Rhodes train station to the sites north through the creation of a new road in Blaxland Avenue. This street establishes the first phase of the future masterplan with a green shared artery along the rail corridor on the site’s western boundary. The initial stage also adapts both the existing multideck above ground carpark reducing the number of cars it contains by 2/3rds while increasing the parking in the foreground of the existing HPE building servicing the existing demand as a transitional consideration in the overall masterplan. The HPE Headquarters building will be a technologically enabled, highly sustainable work destination. It will underpin the future of the GAIA at Brays Bay precinct and act as a benchmark development from which to grow a broader community.*

*To the buildings immediate north a large soft-scaped courtyard buffers the relationship to the existing carpark while the eastern face of the proposal*

*is similarly a landscaped intermediary with the existing HPE HQ building which will be demolished in future stages to open up the rest of the site. ”*

Given the significant amount of GFA which is available on this site, it is in the broader best interests of the community to establish a masterplan for this site prior to approval of this development.

### **Traffic and Carparking**

This proposal seeks to alter traffic flows into and out of the site and to create a new roadway within the site which runs parallel to the railway line. The new roadway is an extension of Blaxland Road and is referred to as Blaxland Avenue. It provides access from Mary Street into the site to the basement loading and parking areas and continues in front of the site (western side), passed the entry foyer to the southwestern corner where it terminates in a turning bay.

The subject site benefits from an existing easement through the basement of the building through Rhodes Corporate Park out onto Concord Road. This easement is to be retained and traffic from the basement levels of the proposed building are to be fed through this easement out onto Concord Road. Therefore traffic from the site would be split into two main routes.

Advice from TfNSW (due to the proximity of the site to Concord Road) have not yet been received however Council's Traffic Engineer has raised issues which are outlined in full within the Referrals section of this report. Concerns as to the adequacy and level of service of the intersection at Alfred Street and Concord Road have been raised by RCP. The changes to traffic flow into and out of the site are shown below:

Carparking for the proposed uses is non-compliant. This has been detailed within this report. Car parking within the multi deck carpark on the northern side of the new building will be reduced as this carpark is proposed to be partially demolished to make room for the new building. The at grade car park which is located further to the north is proposed to be formalised. Despite these changes, the site will not cater for sufficient carparking for the intended GFA. This has been raised by adjacent property owners as a concern.

As a consequence of these works a large number (140) of established trees would be removed from this site. While it is intended for the trees to be replaced, the proposal in its current form does not warrant the removal of so much established vegetation from the site and together with the formalisation of the at grade carpark, would be contrary to the vision for this business park.

5.5. **Suitability of the Site for the Development Proposed [Section 4.15(c)]**

As outlined within this report and as considered by the DRP, the proposal in its current form is not suitable for this part of the site given the proposed levels to be established and the consequences for future development on this site and the amenity of surrounding sites. It being noted that while the proposal is within an area that it largely surrounded by commercial buildings, there is an increasing desire by commercial landowners to recognise the environmental imperative and business sense of integrating sustainability into the core practice of their businesses. This would include reducing energy consumption by maintaining adequate solar access and increasing mobility.

5.6. **The Public Interest [Section 4.15 (e)]**

The proposed development is not consistent with the objectives of the Environmental Planning and Assessment Act as the proposal does not it promote the co-ordinated and orderly, and economic use and development of the land. The development is not consistent with the public interest.

6. **INTERNAL REFERRALS**

6.1. **Landscaping/Tree Removal**

Council's Senior Landscape Architect has commented that since the Design Review Panel a radical redesign a comment would be irrelevant at this time.

6.2. **Stormwater Drainage**

Council's Engineer has reviewed the documentation and has raised multiple issues which are summarised as follows:

1. The proposed vehicular crossing layout on Mary Street East is not complied with Council's DCP, Appendix 2- Engineering Specification.
2. Traffic engineer to comment the proposed raised median or other device to separate traffic entry and exit in the footpath area.
3. The proposed "Blaxland Avenue" is identified as a private road. No civil plan submitted with the submitted proposal.
4. OSD and WSUD system have not been provided for the proposed on-grade car park as it becomes a new car park development.
5. A catchment low point has been identified in Concord Road adjacent to the subject site. As such, it is required the applicant's engineer to investigate and check if the existing stormwater line are adequately to cope and convey the development water to public drainage system without adversely impact to any property and development area.
6. Noting there is a right of access and carriageway burdened in Lot 11, DP875656 benefitted to the subject site. TE to comment if the proposal will affect the right of access (e.g., traffic volume or capacity)

### 6.3. **Traffic Engineering**

Council's Traffic Engineer has raised the following issues and also notes that TfNSW is also to comment on traffic and access issues given the proximity of the site to Concord Road:

#### ***Intersection with Mary Street East –***

- *The proposed new intersection Mary Street East/Blaxland Road/Blaxland Avenue includes a Refuge Island (Splitter Island) which does not comply with relevant standards and TfNSW guidelines. The refuge island should have a minimum gap of 2mx3m for pedestrians.*

*The proposed intersection plan does not include an existing driveway to the carpark at Rhodes Station. This driveway is likely to be retained. As such this driveway shall be included in the plan and assessed. It is apparent there may be conflict issues with vehicles entering and exiting driveways given their close proximity.*

*The plans shall indicate that redundant driveway on the east side will be removed and the layback is to be replaced with upright kerb and gutter.*

#### ***Vehicular Access –***

- *The applicant is required to provide the longitudinal sections along the extreme wheel paths of driveway and each ramp demonstrating compliance with AS/NZS 2890.1:2004. It shall include all levels, grades, transitions and headroom clearances. It shall extend from the centre-line of the roadway through to last parking space and loading dock. Where the driveway crosses the footpath it shall be graded a minimum 0.5% away from the property boundary but not exceeding 2.5%.*

*As per AS/NZS2890.2, the entire path for Council's Garbage truck (medium rigid vehicle) shall achieve a minimum headroom clearance of 4.5m. The longitudinal section shall demonstrate compliance with this requirement prior to the issue of development consent.*

- *Plan for expanded on-grade car park shall demonstrate compliance with AS/NZS2890.1:2004 and AS/NZS2890.6:2009 that includes gradients and dimensions within the carpark prior to the issue of development consent.*
- *A turning manoeuvre assessment has been provided using 8.8 medium rigid vehicle (MRV). However Council's waste management officer advises that Council's contractor uses 10.44m long truck. The Traffic*

*and Parking Impact Statement also indicates that there was a heavy rigid vehicle (12.5m HRV) for delivery when undertaking a survey of existing site. As such a turning manoeuvre assessment shall be provided for HRV using the proposed vehicle crossing layout. Plans shall demonstrate compliance with this requirement prior to the issue of a development consent.*

- *The turn manoeuvre diagram indicates that MRV and B99 movements conflict each other. If it is proposed that the turn manoeuvre overlap, mitigation measures should also be proposed.*

***Parking provision –***

- *Councils DCP – Mixed Use Areas requires a minimum a parking space be provided per 40m<sup>2</sup> for office premises. The development contains 28,956m<sup>2</sup> and is hence required to provide 724 parking spaces. It is noted that the Traffic Assessment interprets the Council's DCP to require maximum a parking space per 40m<sup>2</sup>. However, this requirement is a minimum not the maximum. Hence the submitted proposal does not satisfy Councils parking requirements for commercial development. If a lower parking rate is proposed, it shall be adequately justified by applicant.*
- *AS/NZS 2890.6:2009 requires a bollard be installed in the shared area. The building plans shall demonstrate compliance with this requirement prior to the issue of development consent.*
- *Bicycle lockers should comply as per figure B1 of AS/NZS 2890.3. An access aisle width of at least 2m should be provided in front of each locker to enable the bicycle to be moved in and out of the locker. The building plans shall demonstrate compliance with AS/NZS2890.3 for bicycle parking prior to the issue of development consent.*
- *The plan indicates that some columns are middle of vehicle access aisle. They may obstruct vehicle turn manoeuvre and present a potential hazard to vehicles. The location of these columns shall be reviewed.*

***General Comment –***

- *The demolition of existing carpark should occur after the construction of new northern on-grade carpark. This is to ensure availability of parking for existing users during the construction of new carpark.*

**6.4. Acoustics**

Councils Environmental Health Officer has raised no objections to the proposal subject to conditions

**6.5. Heritage**

Concern was raised regarding the setting of the building within the context of the site and the resultant elevated ground levels. The transition from the proposed ground level to existing ground level is not considered to be well resolved.

The proposal is not considered to be satisfactory against C13 of the Rhodes DCP - Site landscaping, which state that the development should be generally designed to reinforce the intended “buildings in park” image.

**6.6. Contaminated Land and Acid Sulphate Soils**

No objection subject to the submission of a Remedial Action Plan (RAP).  
No objection is raised to the proposal with respect to Acid Sulphate Soils.

**6.7. Waste**

No objections subject to conditions.

**6.8. Design Review Panel**

The subject development application was reviewed by council’s Design Review Panel at its meeting of 17 March 2021. The Panel provided the following comments to the proposal:

***Key Issues and Recommendations***

- 1. The Panel notes that the proposed building is designed as a podium for a future tower. The applicant stated that the proposed building could be stage 1 of a future master plan. The Panel note that this building clearly anticipates a much larger tower building which is not justified or discussed in the proposal (noting the bank of unused lift cores). For this reason alone, the panel cannot support this proposal as is the basis for a much larger building which is not anticipated within the current controls. A significant change in height for this site should be applied for via a Planning proposal rather than a ‘Trojan Horse’ DA.*
- 2. Due to lack of an approved masterplan for the precinct, the Panel advised the applicant that it is not able to provide constructive comments/ recommendations at this stage as it is difficult to assess the proposed development and to appreciate how it will fit in a future context. Furthermore, the Panel notes that the proposal has not addressed previous concerns identified during the last review which therefore remain valid and will not be repeated in this report.*
- 3. The Panel in noting all of the above, is not supportive of the proposed development in its current form. This is further discussed below.*

### ***Building Height and Density***

1. *The Panel notes that the building height has been lowered by 16.3m compared to the previous scheme, however, still exceeds the maximum building height for the site by 3m or 10.7%.*
2. *The FSR has been reduced to 0.84:1 and now achieves compliance with the maximum site total FSR of 2.3:1, however it is noted that this development is the first stage of a redevelopment of the site into a mixed-use precinct, and the allowable yield will eventually be taken up by future stages across the site.*
3. *Although the proposal has been significantly reduced in bulk and scale, it continues to create an awkward relationship to any future development of a building to the east by setting what would become a future podium at the level of the existing corporate park, which the Panel suggests is too high relative to ground levels around the site's other interfaces. Consequently, the proposal does not integrate well with the existing context but rather tries to establish the basis for a vision that has not yet been determined and may not be realised.*
4. *As previously advised by the Panel, it confirms that any new building proposed for the site, should be designed to have improved relationships with the existing context and the desired character as outlined in current planning instruments.*
5. *It is noted that the application includes spatial provisions for additional lifts. Although the submitted building meets the height control, it is likely that this height will be subject to a significant increase with a future application. The Panel is not in a position to support any increase in building height on this site under the current controls.*

### ***Master Plan***

1. *The Panel understands that the proposed development relates to a contemporary workplace in a complex setting, however it is not possible to appreciate a comprehensive vision for the entire site as there is no approved Master Plan.*
2. *The Panel therefore considers that the intended redevelopment of the site requires an approved masterplan that provides a vision and framework for how the site is to be developed including coordinated proposals for land-use, infrastructure, circulation, staging, built form and landscape/open space. Movement patterns and levels within the site need to be established and coordinated*



*with adjoining sites, and then the buildings designed accordingly. It appears that this basic planning process has been omitted.*

3. *The Panel notes the need for an internal spine road within the site. The proposal and the applicant's future vision for the site relies on the laneway/road adjacent the railway corridor becoming the primary eastern access road, however for it to reach its full potential and function, it must continue as a public throughfare rather than the currently proposed elevated ramp and dead-end. The adjoining site must be required to conform to this when re-developed.*
4. *The Panel notes that there might be a potential future height uplift for the site which would likely also be afforded the adjoining sites. Therefore, a master plan would be required to fully anticipate any future context the proposed building will be required to integrate with.*
5. *Until a Master Plan has been developed and approved by Council, the Panel is not able to provide meaningful commentary in terms of building design.*

**7. EXTERNAL REFERRALS INCLUDING THE RESULT OF ANY REFERRALS TO AN APPROVED AUTHORITY**

**Transport for NSW**

Council referred the application to TfNSW for comment in accordance with State Environmental Planning Policy (Infrastructure) 2007 on the 8 November 2021. By letter dated 8 December 2021 TfNSW advised that:

TfNSW has reviewed the additional information and advises that the previous TfNSW comments in the letter dated 8 March 2021 have not been adequately addressed. As such, TfNSW is unable to undertake a proper assessment of the potential traffic impacts on the classified road network from this development.

The applicant is advised that the matters raised in the TfNSW letter dated 8 March 2021 need to be addressed to allow TfNSW to complete the assessment of this application under the State Environmental Planning Policy (Infrastructure) 2007. It is requested that swept path plans and the SIDRA Intersection Project file (.sip) including inputs and outputs is submitted separately for TfNSW review.

Reference to the TfNSW letter dated 8 March 2021 refers to the previous DA, where a similar request was made for additional information.

By letter dated 8 February 2022, Stantec Australia Pty Ltd provided a response to the matters raised by TfNSW including a concept plan, swept path analysis and a SIDRA model.

To date, no response has been received from TfNSW.

### **Sydney Trains**

The application was referred to Sydney Trains on the 8 November 2021 requesting concurrence for the proposed works in accordance with (the former) Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

By letter dated 25 November 2021, Council was advised that:

*“Sydney Trains has undertaken an initial assessment of the relevant documentation, as provided through the Planning Portal, and is not in a position to make a decision on the granting of concurrence in accordance with Clause 86 until additional information that meets Sydney Trains requirements are prepared and submitted to Sydney Trains for review.”*

The additional information sought by Sydney Trains included engineering and technical documentation as follows and was requested within one month of the advice:

- a. Geotechnical and Structural report/drawings including rail specific potential impacts.
- b. Numeric modelling analysis which assesses the different stages of loading - unloading of the site and its effect on the rock mass surrounding the rail corridor.
- c. Construction methodology with details pertaining to structural support during excavation.
- d. Detailed Survey Plan showing the relationship of the proposed development with respect to rail land and infrastructure.
- e. Cross sectional drawings (both architectural and structural) showing ground surface, nearest rail tracks & infrastructure (incl. nearest aerial 11kV & 33kV Conductors, Signal box etc.), property boundary and/or easement, sub-soil profile, proposed development/basement excavation, and structural design of sub-ground support (i.e., footings/piles etc.) adjacent to the rail corridor.
- f. Drainage/civil drawings and details

- g. Drawings/details showing anti-throw mechanisms for openings (windows, balconies, terraces, and the like) within 20m and facing the rail corridor.
- h. Aerial/Craneage Plan (in plan and elevational views).
- i. An amended landscaping plan is required to confirm adherence to Sydney Trains High Voltage Powerline Tree Management Plan, in relation to maximum mature tree height within 10 metres of the HTTL assets.

By letter dated 21 December 2021, a detailed response to the issues raised by Sydney Trains was submitted under cover a letter from Urbis Planning Consultants on behalf of the owner of the site and the applicant.

To date, no response has been forthcoming from Sydney Trains.

## **8. CONCLUSION**

This development application seeks the approval of a 5-storey commercial building on the south western corner of the site known as 410 Concord Road, Rhodes. This involves the partial demolition of the existing multi deck carpark which is located on the western boundary of the site and the re arrangement of the existing at grade car park further to the north of the multi deck carpark. The proposal also involves significant changes to the levels at the rear of the site to have the primary site level align with the ground floor of the RCP, changes to public access and movement through the site and reliance on the adjacent landowner to facilitate continued public access. A significant number of established trees are to be removed. Traffic access is also altered.

The application seeks a variation to the 28m height limit to erect a 31m high building. The proposal is non compliant on car parking. Some aspects of the proposal including how the proposed development would connect into the adjacent site and detailing of the new proposed pedestrian and cycleway lacks sufficient detail.

The proponent requests the approval of the proposed building and associated works on the basis that this building would be the first stage in the orderly development of a masterplan for the precinct. It would provide an anchor point for the overall masterplan and the creation of connections to the RCP to the south.

Given the above and other concerns expressed by Council and surrounding landowners, it is not considered to be a reasonable response for the consent authority to grant consent to the proposal in its current form and without a masterplan in place.

**9. RECOMMENDATION**

Pursuant to Sections 4.16 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT the Sydney Planning Panel – Sydney Eastern City, as the determining authority, refuse to grant consent to Development Application DA2021/0301 for the demolition of an existing multi storey car park and the construction of a 5-storey commercial office building comprising the Hewlett Packard Enterprise Headquarters, along with basement parking, improvements to the existing hardstand car parking area, site landscaping, and public domain works to Blaxland Avenue. on land at 410 Concord Road, Rhodes. The reasons for refusal are as follows:

1. The proposed development is inconsistent with the stated objects of the Environmental Planning and Assessment Act 1979 Clause 1.3 (a), (c) and (g) as the stand alone building without a masterplan in place would not promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, promote the orderly and economic use and development of the land and promote good design and amenity of the built environment.
2. The proposed development is inconsistent with the Eastern City District Plan's stated Actions 38 and 50 which seek to strengthen connections within the Rhodes Peninsula.
3. The proposed development is inconsistent with Clause 1.3 (2) (a)(ii), (c) and (d) of the Canada Bay Local Environmental Plan (LEP) pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 because:
  - a. the proposed development is inconsistent with the Canada Bay Local Strategic Planning Statement adopted by the Council on 15 October 2019, it being noted that the overall development is presented in isolation from its context and inappropriate consideration has been given consideration has been given appropriate consideration of its strategic context and the site as a whole and its relationship with the surrounding development.
  - b. the proposal does not achieve high quality urban form by ensuring that new development reflects the existing or desired future character of particular localities,
  - c. the proposed development does not promote the increased use of public transport, walking and cycling,

4. The proposed development is inconsistent with the following Clauses of the Canada Bay Local Environmental Plan (LEP) pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
  - a. Clause 2.3 – Objectives of the Zone, in that the proposal fails to satisfy the objectives for the B7 Business Park zone as given the scale of the development, that good public access is not facilitated through the zone.
  - b. Clause 4.3 - Height, in that the proposal exceeds the maximum height specified by the applicable environmental planning instrument (Canada Bay Local Environmental Plan 2013).
  - c. Clause 4.6 – it is not considered that the submitted Clause 4.6 variation is sufficiently robust in its arguments to justify a variation to the height standard as proposed.
5. The proposed development does not comply with the following Parts of the Canada Bay Development Control Plan (DCP), pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
  - a. Part C3 - Vehicle and bicycle parking rates and bicycle storage facilities, in that the development does not comply with minimum car parking rates.
  - b. Part C4 – Waste Management, in that it has not been demonstrated that a full-size garbage truck can access the garbage collection point within the basement of the development. It being noted that A turning manoeuvre assessment has been provided using 8.8 medium rigid vehicle (MRV). However, Council’s contractor uses 10.44m long truck
  - c. Part C5 – Preservation of Trees, in that 140 trees are to be removed from the site.
  - d. Appendix 2- Engineering Specification.
6. The proposed development does not comply with the following Parts of the Special Precincts Development Control Plan (DCP), pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
  - a) 2.12.1 General objectives, in that it doesn’t facilitate good public access through the zone. In this regard, the proposed realignment and proposed connections from the Rhodes Railway Station to Homebush Bay Drive would direct both pedestrians and cyclists into the subject site and then through Rhodes Corporate Park to exit onto Homebush Bay Drive. Insufficient details have been provided within the application to confirm how this would be achieved and managed.

- b) In addition to (a) above, the elevated ground level created by this proposal fails to form an appropriate transition to existing ground levels and results in an unsatisfactory relationship between the ground floor levels of the existing buildings located on the lower section of the site and those of the proposed development.
- c) 2.12.2 Specific provisions, Building Setbacks in that the proposed development would not contribute to a “buildings in parkland” image consistent with the “business park” nature of the zoning given the setbacks to the adjacent buildings within the Rhodes Corporate Park.
- d) 2.12.2 Specific provisions, Site landscaping in that the proposal would not reinforce the intended “buildings in park” image or the special qualities of the listed heritage item, which also seek to reinforce the landscape characteristics of this site.

7. The application as submitted has not provided adequate information in order to undertake a full and proper assessment of the application in accordance with the Environmental Planning & Assessment Act 1979 in that the following has not been provided with the application:

- a. Diagrams demonstrating the level of overshadowing to the adjacent building (Building C within the Rhodes Corporate Park), including glazing.
- b. There are no 3D views provided by the architect to illustrate the perspective from the south with the interface between Building C and the proposed development.
- c. Insufficient details have been provided to show how the proposed pedestrian and cycle access will connect into the adjacent site and how public access will be maintained during construction.
- d. Insufficient details have been provided to show that existing views from surrounding A Grade office accommodation would not be affected by the proposed development.
- e. Insufficient details have been provided with respect to vehicular access and parking provision. It being noted that there are deficiencies in the information that has been presented for assessment including turning manoeuvres.
- f. The proposed intersection plan does not include an existing driveway to the carpark at Rhodes Station. This driveway is likely to be retained. As such this driveway shall be included in the plan and assessed. It is apparent there may be conflict issues with vehicles entering and exiting driveways given their close proximity.

- g. Insufficient details have been provided with respect to how the proposed pedestrian and cycleway would connect into the adjoining site to the south to continue to facilitate public access through the zone. Further, the application lacks details as to how access will be facilitated during construction.
- 8. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
- 9. Having regard to submissions received and the adverse environmental impacts of the proposal, the application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.
- 10. The public interest is not served by the raising of site levels and re planning of the existing pedestrian pathway and cycleway along the western edge of the site. Further, the application lacks details as to how access will be facilitated during construction. The application as proposed is not in the public interest, pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979.
- 11. The proposed new intersection Mary Street East/Blaxland Road/Blaxland Avenue includes a Refuge Island (Splitter Island) which does not comply with relevant standards and Transport for NSW guidelines.

