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Development Assessment Report

Council Ref: DA2022/0162

Development Application for alterations and additions to a
mixed use development approved under DA2017/0544

34 Walker Street, Rhodes

Prepared for: City of Canada Bay Council
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Abbreviations

CC	construction certificate
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
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	environmental planning instrument
FSR	floor space ratio
GFA	gross floor area
LEP	local environmental plan
LGA	local government area
LPP	Local Planning Panel
PA	planning agreement
REP	regional environmental plan
RL	reduced level
RMS	NSW Roads and Maritime Services
SECPP	Sydney Eastern City Planning Panel
SEE	Statement of Environmental Effects
SEPP	state environmental planning policy
VPA	voluntary planning agreement

Executive Summary & Recommendation

1.1 Application Description

Application Number	DA 2022/0162
Local Government Area	City of Canada Bay Council
Proposed Development	<p>Development Application DA2022/0162 seeks consent for alterations and additions to the mixed use development approved under DA/2017/0544 to:</p> <ul style="list-style-type: none"> • Add 21 storeys to the approved Tower D; • Add 11 storeys to the approved Tower E; • Add 273 residential apartments within the additional storeys (resulting in 673 units total); • Increase the FSR to 11.56:1; and • Increase the number of car parking spaces within the volume of the approved basement. <p>The DA proposes to modify DA/2017/0544 pursuant to section 4.17 of the EP&A Act.</p>
Street Address	34 Walker Street, Rhodes Lot 101 DP 624798
Applicant Owner Architect	<p>Applicant Thirty Four Walker Street Pty Ltd (Billbergia)</p> <p>Owner Thirty Four Walker Street Pty Ltd / Mifare Pty Ltd</p> <p>Architect: SJB</p>
Number of Submissions	Fifty-nine (59) unique submissions
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Regulation 2021</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 (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>Canada Bay Local Environmental Plan 2013</i> • City of Canada Bay Development Control Plan • Planning Agreement
List all documents submitted with this report	<ol style="list-style-type: none"> 1. Recommended Conditions of Consent 2. Proposed Architectural Plans and Photomontages 3. Satisfactory Arrangements Certificate (State) 4. Section 4.6 Variation Request – Height of Buildings 5. Section 4.6 Variation Request – Mix of Dwellings 6. Section 4.6 Variation Request – Building Separation 7. Public Submissions
Recommendation	Approval subject to conditions

Executive Summary & Recommendation

1.2 Summary

1. On 25 October 2018, the Sydney Eastern City Planning Panel (the SECPP) approved 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 (the Site).
2. The development approved under DA2017/0544 is under construction with excavation, construction of the basement parking and podium substantially complete and tower cores and some floor slabs well advanced.
3. DA2017/0544 has been modified on several occasions pursuant to s4.55 of the EP&A Act (see **Section 2.1**).
4. On 30 October 2021, *State Environmental Planning Policy Amendment (Rhodes Precinct) 2021* (SEPP Amendment 1) commenced and had the effect of amending *Canada Bay Local Environmental Plan 2013* (LEP 2013) in a number of ways, including increasing the height of buildings and floor space ratio (FSR) development standards in the Rhodes Precinct including the Site.
5. On 18 March 2022, *State Environmental Planning Policy Amendment (Rhodes Precinct) 2022* (SEPP Amendment 2) commenced and had the effect of further increasing the height of buildings and FSR limits under LEP 2013 and exempting development on the Site from the maximum tower floor area development standard.
6. On 31 May 2022, the subject DA was lodged and seeks development consent for alterations and additions to the approved development that will increase the height of the buildings by 21 storeys (Tower D) and 11 storeys (Tower E), increase number of residential apartments by 273, increase the FSR to 11.56:1, increase the height of the build by adding 21 storeys to the approved Tower D and adding 11 storeys to the approved Tower E, and increase the number of car parking spaces within the volume of the approved basement levels. The DA proposes to modify DA2017/0544.
7. The DA must be determined by the SECPP as it has a Capital Investment Value (CIV) which exceeds \$30m.
8. The proposed development is permissible with consent in the B4 Mixed Use Zone pursuant to LEP 2013, is consistent with the objectives of that zone, complies with the FSR development standard and generally complies with other relevant provisions of the LEP.
9. The proposed development does not comply with the height of buildings, minimum building separation and mix of dwellings development standards under the LEP 2013.
10. Section 4.6 variation requests for each of these non-compliances have been submitted by the Applicant and are considered to satisfactorily address the requirements under s4.6 of the LEP such that the consent authority may be satisfied and support each of the variations.
11. The proposed development is consistent with the Design Quality Principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) and has been assessed as being generally consistent with the relevant design criteria of the Apartment Design Guide (ADG).
12. The development as modified also complies with the relevant provisions of the *Environmental Planning and Assessment Regulation 2021 (the Regulation)*, *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004*, *State Environmental Planning Policy (Resilience and Hazards) 2021* and *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Executive Summary & Recommendation

13. The proposed development is substantially consistent with the relevant provisions of the City of Canada Bay Development Control Plan in force at the date of lodgement of the DA (the DCP).
14. Fifty-nine (59) unique public submissions were received in respect of the DA with the key objections relating to overdevelopment/overcrowding, traffic and parking impacts, construction impacts, overshadowing, view loss, infrastructure and concerns relating to street cleaning and pollution more generally. The proposed development has been assessed as being acceptable in each of these regards.
15. It is recommended that the DA be approved subject to conditions of consent.

1.3 Recommendation

THAT, the Sydney Eastern City Planning Panel:

1. Determine that the section 4.6 variations requests relating to height of buildings, mix of dwellings and building separation satisfactorily demonstrate that compliance is unreasonable and unnecessary in the circumstances of this case, that there are sufficient environmental planning grounds to justify each non-compliance and that, notwithstanding the non-compliances, the proposed development will be in the public interest.
2. Grant development consent pursuant to section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 to Development Application No. DA2022/0162 for alterations and additions to the approved mixed use development at 34 Walker Street, Rhodes comprising:
 - An additional 21 storeys to the approved Tower D;
 - An additional 11 storeys to the approved Tower E;
 - An FSR of 11.56:1;
 - An additional 273 residential apartments;
 - An additional 218 car parking spaces;

subject to the conditions of consent at **Attachment 1** including a condition requiring the modification of DA2017/0544 pursuant to section 4.17 of the Environmental Planning and Assessment Act, 1979.

2 Background

2.1 Development Consent

On 25 October 2018, the Sydney Eastern City Planning Panel (the Panel) granted deferred commence consent to 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.

On 20 August 2019, Council notified the Applicant that the deferred commencement conditions relating to Sydney Trains requirements and a Remedial Action Plan had been satisfied.

On 29 January 2021, Council approved MOD2020/0123 to increase the level of excavation to facilitate an additional 3 basement parking levels although no increase in overall car parking provision.

On 5 May 2021, Council approved MOD2021/0032 to provide an additional lift to the residential towers from the basement levels.

On 18 October 2021, Council approved MOD2021/0096 to modify the structural columns to the towers, include an additional lift for Tower E and reconfigure parts of the basement levels.

On 27 January 2022, the Local Planning Panel (LPP) approved MOD2021/0135 to modify the DA to provide for changes to the layout of the recreation centre within the podium (including removal of the swimming pool).

On 7 April 2022, a Section 4.55(1A) modification application (MOD2022/0040) was submitted seeking to modify a number of internal layout arrangements to accommodate the proposed additional storeys and car parking. It is anticipated that this modification application will be determined in December 2022.

2.2 State Environmental Planning Policy Amendments (Rhodes Precinct)

On 30 October 2021, *State Environmental Planning Policy Amendment (Rhodes Precinct) 2021* (SEPP Amendment 1) commenced and had the effect of amending LEP 2013 in a number of ways including, amongst other things:

- Increasing the Height of Buildings development standard applicable to the Site from 125m to 129.5m on the western side of the Site and to 151.5m on the eastern side of the site; and
- Increasing the FSR development standard applying to the Site from a maximum of 7.5:1 to 10.8:1.

There were no savings or transitional provisions in the SEPP Amendment.

On 18 March 2022, a further amending SEPP - *State Environmental Planning Policy Amendment (Rhodes Precinct) 2022* (SEPP Amendment 2) commenced and had the effect of amending LEP 2013 including in the following ways that are relevant to the proposal:

- Exempting the Site from the maximum floorplate GFA of 750m² under cl7.5(2) of the LEP;
- Increasing the Height of Buildings development standard applicable to the Site from 129.5m to 136.5m on the western side of the Site; and
- Increasing the FSR development standard applying to the Site from a maximum of 10.8:1 to 11.6:1.

3 Site Context

3.1 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.

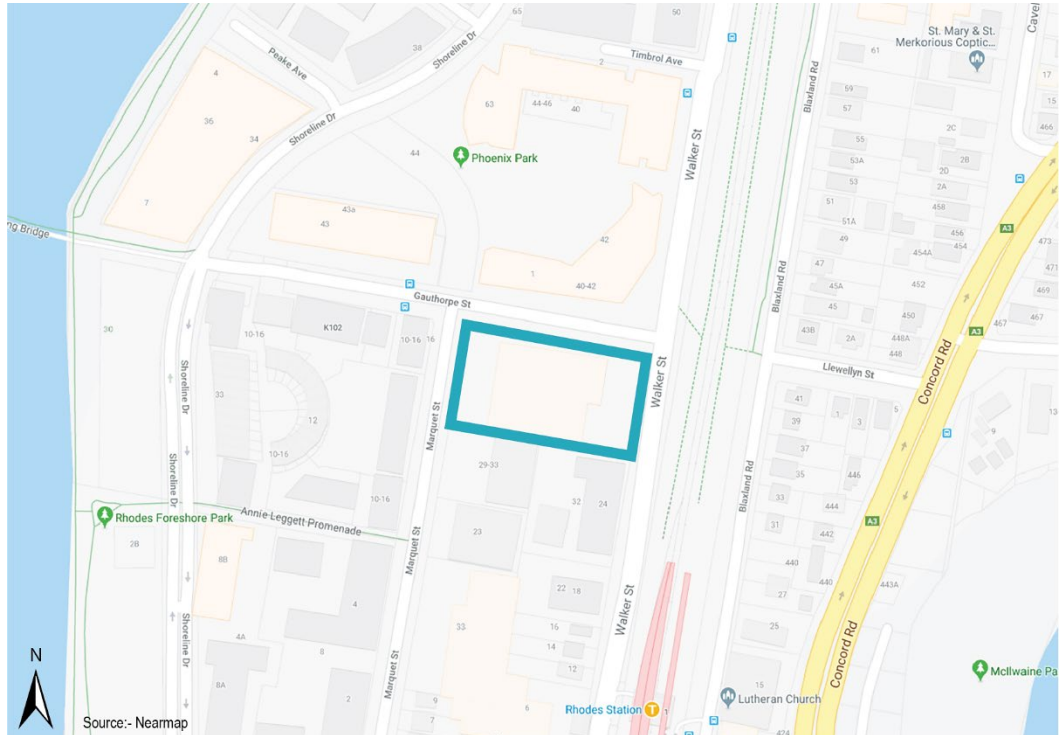


Figure 1 Site Location

3.2 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 (Source: Neamap, December 2022)

3 Site Context

There is a fall of 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 1-2 storey warehouse and all vegetation that once occupied the Site were demolished/removed in 2020 as part of the approved DA works.

Construction of the approved development is underway (see **Figures 5-8**) and is being undertaken in two zones with progression of construction in the Eastern Zone (including Tower E) as follows:

- Basement structure complete and services fitout to lower basement levels commenced;
- Podium structure complete up to Level 4 with the podium precast façade substantially complete up to Level 3;
- Tower E residential lift core vertical structure complete up to Level 20;
- Tower E residential suspended slab structure complete up to Level 7.



Figure 3 The Site viewed from Marquet Street looking north-east.

Construction in the Western Zone (including Tower D) has progressed as follows:

- Basement structure substantially complete and services fitout to lower basement levels commenced;
- Podium structure commenced with Level 1 suspended slab completed;
- Tower D residential lift core vertical structure up to Level 2 mezzanine complete.

3 Site Context



Figure 4 The Site viewed from Walker Street looking south-west.



Figure 5 The Site viewed from Walker Street looking north-west.

3.3 Surrounding Development

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.

The Site is generally surrounded to the north, south and west by multi-storey residential apartment buildings which have either been completed or approved to be constructed (see **Figures 6-10**).

3 Site Context



Figure 6 To the north, development along Gauthorpe Street.



Figure 7 To the east, Walker Street and the railway line.

3 Site Context



Figure 8 To the south, development along Walker Street.



Figure 9 To the south, development along Marquet Street.

3 Site Context



Figure 10 To the west, development along Marquet Street.

4 Proposed Development

4.1 Summary Statistics

Table 1 provides a summary of key development statistics by comparison to the approved development:

Table 1 Development Statistics			
	Approved under DA2017/0544 (as modified)	Proposed DA2022/0162 (this DA)	Total
Site Area	6,807.6m ²	No change	6,807.6m ²
Residential Apartments / Unit Mix	39 x 1-bed (9.7%) 187 x 2-bed (46.8%) 174 x 3-bed (43.5%) 400 Total	+54 x 1-bed (19.8%) +105 x 2-bed (38.4%) +114 x 3-bed (41.8%) +273 Total	93 x 1-bed (13.8%) 292 x 2-bed (43.4%) 288 x 3-bed (42.8%) 673 Total
Residential GFA	41,083.3m ²	+27,877m ²	68,960.3m ²
Retail GFA	534.7m ²	No change	534.7m ²
Recreation Centre GFA	9,217.7m ²	No change	9,217.7m ²
Total GFA	50,835.7m ²	+27,877m ²	78,712.7m ²
FSR	7.47:1	+4.09:1	11.56:1
Communal Open Space	2,270m ²	+550m ²	2,820m ²
Height of Building			
- Tower D	74.7m (RL 85.40m)	+69.1m	143.8 (RL 152.30m)
- Tower E	121.3m (RL132.10m)	+35.6m	156.9m (RL 167.80m)
Car Parking (spaces)	400 resident 20 resident visitor 162 recreation centre 0 commercial 2 car share 1 car wash 585 Total	+204 resident +14 resident visitor -12 recreation centre +12 commercial No change No change +218 Total	604 resident 34 resident visitor 150 recreation centre 12 commercial 2 car share 1 car wash 803 Total
Motorcycle Parking (spaces)	6 resident	1 resident	7 resident
Servicing	5 bays	No change	5 bays

4.2 Outline of Proposal

The proposed development seeks to carry out alterations and additions to the development approved under DA/2017/0544 as shown in the architectural drawings at **Attachment 2** and described as follows:

Basement Levels

- Infill slab voids to Basement Levels 3, 5, and 7 to accommodate additional residential car parking;
- Internal layout changes to Basement Levels 1, 2, 4, 6 and 8 to accommodate residential and commercial car parking and consequential car parking and vehicle circulation reconfiguration;
- Additional storage cages at Basement Levels 3–9 to cater for additional residential apartments;

Above Ground Levels

- 178 additional residential apartments in 21 levels above the approved Tower D (Levels 20–40);

4 Proposed Development

- Provision of a communal space at Level 20 of Tower D;
- A communal open space and double height plant zone (to accommodate cooling towers and a lift motor room) at the rooftop level of Tower D (Level 41);
- One (1) additional apartment at Level 25 within Tower E;
- Removal of two (2) apartments at Levels 26 and 27 within Tower E and provision of communal spaces;
- 96 additional residential apartments in 11 levels above the approved Tower E (Levels 35–45);
- A communal open space and double height plant zone (to accommodate cooling towers and a lift motor room) at the rooftop level of Tower E (Level 46);
- Green façade planting to Tower D from Level 11-41.

5 Environmental Planning Assessment

5.1 Environmental Planning and Assessment Act, 1979

Pursuant to section 4.17(1)(b) of the EP&A Act authorises a consent authority to impose a condition of development consent requiring the modification of a consent granted under the EP&A Act.

The subject application invites such a condition such that this DA would require the modification of DA2017/0544.

Pursuant to section 4.17(5) of the EP&A Act and section 67 of the Regulation, the process for modification is as follows:

1. The consent authority imposes a condition of consent on the new DA (i.e. this DA) requiring that a "Notice of Modification" in relation to Development Consent DA/2017/0544 be lodged with Council prior to the issue of a CC for the new DA;
2. The Applicant submits the notice of modification in the terms required by s67 of the Regulation, including details of the modification;
3. The notice takes effect when the consent authority gives written notice to the person giving the notice that the consent authority received the notice.

A condition of consent requiring the above is recommended and is stated as follows:

Prior to the issue of any Construction Certificate for the development approved by this Consent (DA2022/0162) and pursuant to s4.17(5) of the EP&A Act and s67 of the EP&A Regulation, a notice of modification must be submitted to Council outlining such matters as may be relevant in regard to development consent DA2017/0544.

5.2 Environmental Planning and Assessment Regulation 2021

Section 25 - Concurrences and/or Approvals

There are no concurrences or approvals required for the subject DA.

Section 27 - BASIX

In accordance with Section 27 of the Regulation the Proposal is BASIX Development and accordingly, a BASIX Certificate has been prepared for the residential apartments and accompanies the application.

Section 29 – Residential Apartment Development

The DA is accompanied by a statement by a qualified designer which meets the requirements of Section 29 of the Regulation.

Section 32 - Extract of development application for erection of building

The DA was accompanied by notification plans in accordance with the Regulation.

5.3 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.

5.3.1 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Sections 8 and 9 of SEPP BASIX specify that the competing provisions of an EPI (cl8) or DCP (s9) are of no effect to the extent to which they aim:

- (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or
- (b) to improve the thermal performance of a building to which this Policy applies.

5 Environmental Planning Assessment

Accordingly, no more onerous provisions of an EPI or the DCP can be imposed on the proposed development than those required to achieve compliance with the BASIX Certificate issued and which accompanies the DA.

5.3.2 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

SEPP 65 and the Apartment Design Guidelines (ADG) apply to:

- the erection of a new building, the substantial redevelopment or the substantial refurbishment of an existing building or the conversion of an existing building; and
- the building concerned is at least 3 or more storeys; and
- the building concerned contains at least 4 or more dwellings.

Accordingly, SEPP 65 and the ADG apply to the proposed development as it will be a building of 3-storeys or more containing four (4) or more dwellings.

The Design Report prepared by SJB Architects submitted with the DA includes a detailed assessment of the proposal against the design quality principles under SEPP 65 and the relevant design criteria under the ADG.

A review of that assessment by the author of this report considers that the proposal satisfactorily responds to the relevant provisions noting the following:

- The proposed communal open space is 2,820m² (increased from 2,270m² approved) which constitutes 41% of the site area which complies with the ADG;
- Whilst no deep soil planting is provided at ground level, this is consistent with the approved development on the site and deep soil planting is provided at the podium level;
- Building separation distances are consistent with the approved development;
- 72.6% of apartments receive the required 2 hours direct solar access and approximately 7% have no direct solar access which complies with the ADG;
- 69% of apartments are naturally cross ventilated which complies with the ADG;
- 15.2% of apartments are adaptable which complies with the ADG;
- All ceiling heights are consistent with the approved development and complies with the ADG;
- All apartments comply with the minimum area and dimension requirements for internal rooms and storage areas;
- Whilst some apartments do not strictly comply with the dimensions and/or area for external private open spaces, this is consistent with the approved design;
- Whilst most floor levels have 8 or less apartments accessed off the core, some levels have 9 or 10 apartments although this is consistent with the approved lower levels and/or provides for additional one bedroom apartments to be provided in the same tower floorplate and additional lifts have been added under other modification application/s.

Pursuant to Section 28 of SEPP 65, the application was required to be referred to the Canada Bay Design Review Panel for comment prior to determination by the consent authority.

In February 2022, prior to lodgement of the subject DA, the DRP considered a preliminary scheme and made comments regarding the extent of exceedance of the height of buildings standard (then much greater than currently proposed), lack of additional communal space, potential wind impacts, catering for families in the unit design/mix and preference for a new, singular and holistic DA.

5 Environmental Planning Assessment

On 21 September 2022, the DRP considered the subject application and noted improvements to the initial scheme including lowering of the height, provision of additional communal open space and greater apartment diversity and adequacy of the façade greening strategy.

5.3.3 State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP RH)

SEPP RH relates to remediation of contaminated land and requires, amongst other things, investigations to be undertaken as part of the development assessment process, to determine whether the subject land is likely to be contaminated and if so, what remediation work is required.

The original Notice of Determination for DA2017/0544 was for a Deferred Commencement Consent with one of the deferred commencement conditions requiring a Detailed Site Investigation (DSI) to be undertaken post demolition of existing buildings and if necessary, preparation of a Remedial Action Plan. This Deferred Commencement Condition of Consent was satisfied on 20 August 2019 with the DSI confirming that the Site could be made suitable for the proposed residential and commercial land uses.

All excavation of the site under the approved DA2017/0544 has been completed and the subject DA does include any additional excavation or result in impacts that would give rise to the need to undertake any additional contamination assessment.

5.3.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48 - Development likely to affect an electricity transmission or distribution network

Section 2.48 of SEPP TI requires that in certain circumstances, before determining a DA, the consent authority must give written notice to the electricity supply authority for the area in which a development is to be carried out and take into consideration any response that is received within 21 days after the notice is given.

The proposed development does not trigger a statutory referral in this instance although the DA was referred to Ausgrid which did not raise any objection to the proposed development.

Section 2.98 - Development adjacent to rail corridors

The proposed development was referred to Transport for NSW pursuant to s2.98 of SEPP TI due to the proximity of the site to the railway line to the east.

On 8 July 2022, TfNSW responded recommending that a condition be imposed requiring updated documents relating to managing impacts on the rail corridor. Such a condition has been recommended in accordance with the TfNSW response.

Section 2.100 - Impact of rail noise or vibration on non-rail development

In accordance with s2.100, the impact of rail noise on the additional residential apartments has been considered. The original DA was deemed acceptable with some glazing treatments and accordingly, a condition of development consent has been recommended requiring compliance with the noise criteria under s2.100(3) of SEPP TI.

Section 2.121 – Traffic Generating Development

Section 2.121 and Schedule 3 of SEPP TI relate to traffic generating development and certain proposals trigger a requirement for referral to the TfNSW.

The proposed development will entail more than 200 additional car parking spaces and accordingly, was referred to TfNSW.

On 22 June 2022, TfNSW responded to the referral stating that it had no comments in regard to the subject DA.

It is noted that the DA has also been referred to Council's Traffic Engineers and this is addressed in **Section 5.4.2** of this report.

5 Environmental Planning Assessment

5.3.5 State Environmental Planning Policy (Planning Systems) 2021

Pursuant to Section 2.19 and Schedule 6 Part 2 of SEPP PS, development that has a CIV of more than \$30 million is deemed to be regionally significant development.

The CIV Estimate indicates that the proposed development has a CIV of approximately \$99.5 million as per the definition of CIV in the EP&A Regulation.

Accordingly, pursuant to Section 4.5(b) of the EP&A Act, the consent authority for the proposed development will be the SECPP.

5.3.6 Canada Bay Local Environmental Plan 2013

Table 2 provides a summary assessment of the development against the provisions of the LEP relevant to this application.

Table 2 Assessment against Relevant Provisions of LEP 2013		
Provision	Assessment	Consistency / Compliance
2.2-2.3 – Zoning and Objectives B4 Mixed Use Objectives of zone <ul style="list-style-type: none"> 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. 	The proposal is for residential apartments within a shop-top housing development and is permissible with consent. The 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.	Permissible Consistent
2.6 – Subdivision	The subject DA does not seek approval for subdivision	N/A
4.3 – Height of Buildings Maximum = 136.5 metres –western side of the Site Maximum = 151.5 metres – eastern side of the Site	Tower D - Approved 74.7m (RL 85.40m) Proposed = 143.8 (RL 152.30m) Tower E - Approved 121.3m (RL 132.10m) Proposed = 156.9m (RL 167.80m)	Does not comply (see below)
4.4 – Floor Space Ratio Maximum = 11.6:1	Approved = 7.47:1 Proposed = 11.56:1	Yes
6.2 – Earthworks	The proposal does not require any additional excavation and does not seek to amend any conditions of consent on DA2017/0544 relating to management of soil or water impacts or the like.	Consistent
6.5 – Active street frontages	The western portion of the southern boundary is identified on the Active Street Frontages Map although the proposal does not include any change to the approved building form in this location.	Consistent
6.9 – Arrangements for designated State public infrastructure The Site is within an “intensive urban development area” and the proposal results in an increase in the number of dwellings. Accordingly, prior to consent being granted, the Secretary of the DPE must certify that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure.	On 17 November 2022, the DPE issued a satisfactory arrangements Certificate for the subject DA (see Attachment 3).	Complies
6.10 Public utility infrastructure	The site is serviced by all required essential public utility infrastructure and the approved development caters for augmentation of electricity infrastructure to cater for the additional development.	Yes

5 Environmental Planning Assessment

Table 2 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency / Compliance
6.11 Mixed of dwelling sizes - Min. 20% x 1 bedroom apartments - Min. 20% x 3+ bedroom apartments	19.8% – does not comply – see below regarding the Applicants s4.6 variation request. 41.7% - complies	Does not comply (see below) Complies
6.12 – Affordable Housing (1) This clause applies to development on land in an affordable housing contribution area that involves— (a) the erection of a new building with a gross floor area of more than 200 square metres, or (b) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area that is intended to be used for residential purposes, or (c) the demolition of existing floor area and the subsequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area. (2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable affordable housing levy contribution for the development specified in subclauses (2A)–(6A). ... (6A) The affordable housing levy contribution for development on land in the Rhodes West affordable housing contribution area, except for Area 4, is 5% of the relevant floor area that exceeds the floor space achieved by applying the maximum floor space ratio that was shown for the land on the Floor Space Ratio Map immediately before the commencement of this subclause. ... relevant floor area of a building means the gross floor area of the building that is to be used for residential purposes excluding the floor area that is— (a) to be used to provide affordable housing or public housing, or (b) to be used for community facilities, schools, public roads or public utility undertakings, or (c) on land in Zone IN1 General Industrial.	The Site is within the Rhodes West affordable housing contribution area and the increase in GFA includes residential GFA. Accordingly, an affordable housing contribution is applicable in this instance, calculated as 5% of the residential GFA that exceeds the FSR that was applicable to the Site prior to the commencement of the SEPP Amendment – i.e. 7.5:1. The approved development (as modified) has a GFA of 50,835.7m ² (FSR = 7.47:1) and accordingly, there is a residual GFA of 221.3m ² up to the 7.5:1 limit that previously applied to the Site. Accordingly, the proposed residential GFA of 27,877m ² less the residual GFA up to 7.5:1 results in a “relevant floor area” of a GFA 27,655.7m ² . The application does not seek to provide for any apartments as affordable housing and therefore, the affordable housing levy contribution is calculated as follows: - 27,655.7m ² x \$488.75 = \$13,516,723.38 monetary contribution A condition of consent is recommended that requires this affordable housing contribution to be met prior to the issue of a Construction Certificate, noting the value will be indexed from 2019 to the date of payment.	Complies with Condition of Consent
7.2 Design excellence in Rhodes Precinct (1) This clause applies to development in the Rhodes Precinct involving the erection of a new building, or external alterations to an existing building, that is, or as a result of the development will be, higher than 12 metres or 3 storeys, or both. (2) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. (3) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—	Section 7.2 applies as the site is within the Rhodes Precinct and entails a building in excess of 12m and 3 storeys It is considered that the relevant design excellence criteria under cl7.2 are achieved as follows:	Consistent

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Table 2 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency / Compliance
<p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the requirements of a development control plan made by the Council and applying to the land on the commencement of this clause,</p> <p>(ii) the suitability of the land for development,</p> <p>(iii) existing and proposed uses and use mix,</p> <p>(iv) heritage issues and streetscape constraints,</p> <p>(v) the relationship of the development with other development, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(vi) bulk, massing and modulation of buildings,</p> <p>(vii) street frontage heights,</p> <p>(viii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</p> <p>(ix) the achievement of the principles of ecologically sustainable development,</p> <p>(x) pedestrian, cycle, vehicular and service access, circulation and requirements,</p> <p>(xi) the impact on, and any proposed improvements to, the public domain,</p> <p>(xii) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xiii) excellence and integration of landscape design.</p> <p>(4) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) an architectural design competition is held in relation to the development, and</p> <p>(b) the consent authority takes into account the results of the architectural design competition.</p> <p>(5) Subclause (4) does not apply—</p> <p>(a) to development that relates to a building not higher than 28 metres or 8 storeys, or both, or</p> <p>(b) to development involving only alterations or additions to an existing building, or</p> <p>(c) in relation to an application to modify an existing development consent, or</p> <p>(d) if the NSW Government Architect certifies in writing that an architectural design competition need not be held.</p>	<p>(a) the high standard of architectural design, materials and detailing is consistent with that already approved,</p> <p>(b) the form and external appearance of the development continues the form of the approved building with additional façade greening which will improve the quality and amenity of the public domain,</p> <p>(c) the additional height will not significantly impact on view corridors,</p> <p>(d) the development:</p> <p>(i) is generally consistent with the DCP requirements,</p> <p>(ii) is suitable for this site noting the recent statutory height and FSR uplifts,</p> <p>(iii) does not alter the approved land uses,</p> <p>(iv) does not result in any adverse heritage impacts,</p> <p>(v) will have a relationship with surrounding land that is envisaged by the controls,</p> <p>(vi) maintains the approved bulk or mass of the towers to a greater height,</p> <p>(vii) does not alter the approved street frontage heights,</p> <p>(viii) complies with relevant sustainable design, overshadowing, wind and reflectivity requirements,</p> <p>(ix) complies with BASIX,</p> <p>(x) does not significantly alter the approved pedestrian, cycle, vehicular and service access, circulation arrangements,</p> <p>(xi) does not alter the approved interfaces with the public domain,</p> <p>(xii) does not alter the approved ground floor interfaces with the public domain,</p> <p>(xiii) integrates appropriate new landscaping into the tower forms.</p> <p>Pursuant to subsection (5), subsection (4) does not apply to the subject DA as it seeks development consent for alterations and additions to an existing building.</p>	
7.3 – Overshadowing of public places in Rhodes Precinct	The shadow diagrams provided with the DA demonstrate that there is no additional overshadowing of Peg Patterson Park or Union Square at the times designed in the LEP.	Complies
7.4 Minimum non-residential floor space in Rhodes Precinct	The Site is not identified on the non-residential Floor Space Map	N/A

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Table 2 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency / Compliance
7.5 - Minimum building separation and maximum floor areas above building podiums in Rhodes Precinct (1) Development consent must not be granted to development that results in a building in the Rhodes Precinct being separated from another building by less than— (a) for a building higher than 14 storeys but not higher than 20 storeys—24 metres, or (b) for a building higher than 20 storeys—40 metres. (2) Development consent must not be granted to development that results in the gross floor area of a floor of a building in the Rhodes Precinct exceeding 750 square metres. (3) This clause does not apply in relation to the podium of a building in the Rhodes Precinct. (4) Subclause (2) does not apply in relation to a building on Lot 101, DP 624798, 34 Walker Street, Rhodes.	37m – Complies 37m – does not comply – see below regarding the Applicant's s4.6 variation request. N/A see subsection (5) N/A Noted – see above	Complies Does not comply (see below) N/A N/A Noted
7.6 - Maximum height of podiums	The Development Application does not seek to increase the approved podium height.	N/A
7.7 - Maximum number of dwellings in Rhodes Precinct (1) Development consent must not be granted to development that results in more than 3,000 dwellings in the Rhodes Precinct. (2) The following dwellings are to be disregarded for subclause (1)— (a) dwellings that existed before 30 October 2021, (b) dwellings permitted by a development consent granted before 30 October 2021.	The proposal seeks consent for an additional 273 dwelling apartments. Council's Planning staff have advised that since 30 October 2021, there have been no additional dwellings approved in the Rhodes Precinct and accordingly, consent may be granted to the subject DA.	Complies
7.8 - Maximum number of car parking spaces for uses of land in Rhodes Precinct (1) Development consent must not be granted to development that results in the number of car parking spaces provided in connection with a use of land in the Rhodes Precinct exceeding the maximum specified in this clause. (2) The maximum number of car parking spaces is as follows— ... (d) for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing— (i) 0.1 spaces per studio dwelling, and (ii) 0.3 spaces per dwelling with 1 bedroom, and (iii) 0.7 spaces per dwelling with 2 bedrooms, and (iv) 1 space per dwelling with 3 or more bedrooms, and (v) 1 visitor car parking space per 20 dwellings.	<u>Required:</u> Resident - 0.3 spaces x 54 apartments = 16.2 spaces - 0.7 spaces x 105 apartments = 73.5 spaces - 1 space x 114 apartments = 114 spaces Visitor: - 0.05 x 273 dwellings = 13.65 spaces Maximum Required = 218 (rounded to the nearest whole number) Proposed = 218	Complies
7.9 - Water reticulation systems for buildings in Rhodes Precinct	The DA is accompanied by a Dual Water reticulation report indicating that the proposed development can be serviced with dual reticulated water systems.	Complies

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Section 4.6 Variation Request – Height of Buildings

As indicated in **Table 2**, the proposal does not comply with the height of buildings development standard under s4.3 of the LEP as follows:

- Proposed Tower D will have a height of 143.8m which exceeds the maximum of 136.5m by 7.3m (5.3%); and
- Proposed Tower E will have a height of 156.9m which exceeds the maximum of 151.5m by 5.4m (3.6%).

The parts of the towers in excess of the height limit comprise lift machine rooms and overruns, plant and rooftop communal open space as shown in the following extracts from the architectural drawings and s4.6 variation request.

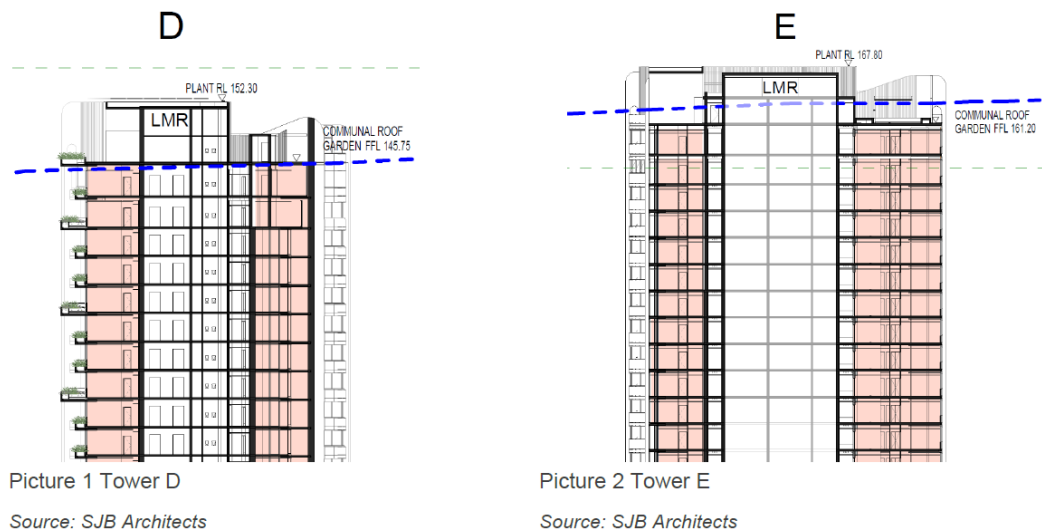


Figure 11 Extent of height non-compliance.

Pursuant to s4.6(3), a written request to vary the height of buildings development standard has been prepared by Urbis (see **Attachment 4**) and an assessment of that request is provided below:

- It is agreed that the height of buildings control under s4.3 of the LEP is a development standard and is not excluded from the application of s4.6 of the LEP;
- It is assessed that, in satisfaction of s4.6(3)(a) and s4.6(4)(a)(i), compliance with the standard is unreasonable and unnecessary in the circumstances of this case because:
 - The proposal, notwithstanding the non-compliance, is consistent with the relevant objectives of the development standard as described in Table 2 of the written request; and
 - The purpose of standard would be thwarted if strict compliance were required because the numerical height limit is inconsistent with the detailed built form controls contained within the DCP.
- It is assessed that, in satisfaction of s4.6(3)(b) and s4.6(4)(a)(i), there are sufficient environmental planning grounds to justify the non-compliance because:
 - The non-compliance arises from a technical requirement for mechanical plant and equipment;
 - The variation is minor (3.6-5.3%);
 - The LEP allows for architectural roof features above the height limit and the rooftop structures have been designed to be incorporated into the overall architectural form of the building;

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- The areas above the height limit are not habitable for the purposes of residential floor space;
- The areas above the height limit provide for beneficial communal open space;
- The non-compliant parts of the building will be indiscernible from the street level in the public domain;
- The proposal complies with the FSR limit for the site;
- There will be no material overshadowing of the street or public domain as a consequence of the non-compliance.
- It is assessed that, in satisfaction of s4.6(4)(a)(ii), the proposed development is in the public interest because:
 - The proposal, notwithstanding the non-compliance, is consistent with the relevant objectives of the development standard as described in Table 2 of the written request; and
 - The proposal is consistent with the objectives of the B4 Mixed Use Zone as described in Table 3 of the written request.
- It is assessed that, in satisfaction of s4.6(4)(b), the SECPP can assume the concurrence of the Secretary of the DPE in accordance with the Notice issued by the Secretary on 21 February 2018.

Accordingly, it is considered that the consent authority can be satisfied with the applicant's s4.6 written request to vary the height of buildings development standard under s4.3 of the LEP.

Section 4.6 Variation Request – Mix of Dwellings

As indicated in **Table 2**, the proposal does not comply with the mix of dwellings development standard under the s6.11 of the LEP as the proportion of 1 bedroom apartments proposed constitutes 19.8% of the additional apartments which is less than the required 20%. The non-compliance equates to 0.6 of one apartment or a 1% variation relative to the numerical standard.

Pursuant to s4.6(3), a written request to vary the mix of dwellings development standard has been prepared by Urbis (see **Attachment 5**) and an assessment of that request is provided below:

- It is agreed that the mix of dwellings control under s6.11 of the LEP is a development standard and is not excluded from the application of s4.6 of the LEP;
- It is assessed that, in satisfaction of s4.6(3)(a) and s4.6(4)(a)(i), compliance with the standard is unreasonable and unnecessary in the circumstances of this case because:
 - The proposal, notwithstanding the non-compliance, is consistent with the relevant objectives of the development standard as described in Table 1 of the written request in that it will provide for housing choice for different demographics, living needs and household budgets and accommodate a range of household sizes.
- It is assessed that, in satisfaction of s4.6(3)(b) and s4.6(4)(a)(i), there are sufficient environmental planning grounds to justify the non-compliance because:
 - The non-compliance is a numerical technicality in that the number of 1-bedroom residential apartments as a percentage of the total apartments is 20% when rounded up to the nearest whole percentage;
 - The minor non-compliance is not perceptible from the public domain and will have no material environmental impact in relation to the natural environment, the built environment, social or economic impacts, or any other amenity considerations (traffic, wind, solar access, BCA compliance, access etc); and

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- There is no stated objective for this development standard yet the proposed separation does not preclude appropriate environmental planning outcomes with regard to matters such as solar access, view sharing, visual and acoustic privacy and cross ventilation.
- It is assessed that, in satisfaction of s4.6(3)(b) and s4.6(4)(a)(i), there are sufficient environmental planning grounds to justify the non-compliance because:
 - The proposed building separation is as per the approved development on the site;
 - Visual and acoustic privacy, solar access, and view sharing are provided for with the towers designed to face away from each other and Tower D splitting in two, angling its inner walls away from Tower E;
 - There is no net increase in overshadowing to public places including Union Square during prescribed times;
 - The additional residential levels to Tower D and Tower E are consistent with ADG and DCP design quality and amenity criteria;
 - Approximately 72.7 % of apartments receive 2 hours direct sunlight in mid-winter;
 - Approximately 69% of apartments achieve natural cross ventilation;
 - Acoustic amenity has been provided through the use of appropriately rated glazing suites to provide acoustic amenity for residents.
- It is assessed that, in satisfaction of s4.6(4)(a)(ii), the proposed development is in the public interest because:
 - Although there is no stated objective of the development standard, the assumed intent is met; and
 - The proposal is consistent with the objectives of the B4 Mixed Use Zone as described in Table 1 of the written request.
- It is assessed that, in satisfaction of s4.6(4)(b), the SECPP can assume the concurrence of the Secretary of the DPE in accordance with the Notice issued by the Secretary on 21 February 2018.

Accordingly, it is considered that the consent authority can be satisfied with the applicant's s4.6 written request to vary the building separation development standard under s7.5(1)(b) of the LEP.

5.3.7 City of Canada Bay Development Control Plan

Table 3 provides a summary assessment of the proposed development against the relevant provisions of the DCP as in force at the date of lodgement of the DA to the extent that they have not been addressed in the preceding sections.

Table 3 Assessment against Relevant Provisions of the DCP		
Provision	Assessment	Consistent
K2.3 General Controls		
A. Public Domain	The proposal is primarily for additional storeys over existing approved tower forms and does not include any change to the ground levels or interface with the public domain	N/A
B. Private Domain	B1. Land Use - The proposal maintains the mixed use nature of land uses on the site.	Yes
	B2. Built Form – The proposal complies with the building envelope and 159m maximum height control under the DCP.	Yes
	B3. Building Bulk – The proposal generally complies with the ADG requirements which prevail in this instance.	Yes

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Table 3 Assessment against Relevant Provisions of the DCP

Provision	Assessment	Consistent
	B4. Setbacks – The proposal complies with the tower setback requirements and is consistent with the approved tower floorplate.	Yes
	B6. Building Articulation and address – The proposal is consistent with the built form envisaged in the site-specific controls for Precinct D, within which the site is located.	Yes
K2.4 Site Specific Controls		
(Precinct D)	C1 – The proposal complies with the building envelope and 159m maximum height control under the DCP.	Yes
	C7 – The proposal continues the approved tower floorplate upward as envisaged by the DCP.	Yes
	C8-C13 – There is no change proposed to the approved podium or setbacks.	Yes
	C19 – The Wind Impact Assessment prepared by RWDI and submitted with the DA concludes that the proposal will result in acceptable pedestrian amenity at the street level.	Yes
	C31-33 – The proposal is not required to achieve Green View Index requirements as it entail additions greater than 14m above ground level. Notwithstanding, the proposal includes façade greening to meet the objectives of the DCP.	Yes
	C61 – The DA was referred to CASA in relation to aircraft impacts and CASA has recommended conditions regarding rooftop lighting during darkness hours and specified a requirement for separate approvals for any construction cranes and the like.	Yes

5.3.8 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 was amended on 31 March 2018 and again in late 2021 with the most recent amendments relating to the design of the recreation centre.

The Planning Agreement continues to apply to the Site and the development as approved under DA2017/0544 and the proposed development does not trigger any additional requirements or amendment of the Planning Agreement.

On 17 November 2022, the Department of Planning and Environment issued a satisfactory arrangements Certificate relating to State public infrastructure as required by s6.9 of the *Canada Bay Local Environmental Plan 2013*.

5.4 Likely Impacts of the Development

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

5.4.1 Built Form

The proposed built form is effectively a vertical extension of the approved tower forms which is in accordance with the site specific DCP planning controls, noting that both the LEP and DCP envisage the approved tower floorplates to be replicated upward.

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The tower forms were assessed under the original DA as being acceptable and the DRP consideration of this DA is also that the general arrangement of the tower forms and residential amenity within is acceptable.

Whilst the towers exceed the LEP height limit, they are consistent with the heights and envelopes contained within the DCP and the areas of non-compliance are limited to rooftop plant and machinery and communal spaces as described above in relation to the s4.6 variation request.

The proposed façade greening of Tower D will provide for an improved visual impact compared to the approved development and accordingly, the proposal is considered to be acceptable with regard to overall built form and appearance.

5.4.2 Traffic and Parking

The potential traffic and parking impacts of the proposed additional residential floorspace has been assessed by Stantec and includes new traffic surveys in July 2022 and account for the opening of the Stage 1 development in the precinct.

The traffic modelling undertaken includes an assessment of traffic arising from the proposed development as well as that of traffic from future development in the precinct.

The assessment concludes that key intersections in the Station Precinct will continue to operate at acceptable levels of service other than the Mary Street/Rider Boulevard intersection which will experience some constraint during the middle of the day on a Saturday.

Notwithstanding, the Applicant's traffic consultant suggests that reversal of the priority on this intersection to provide priority to Walker Street-Rider Boulevard traffic will assist to alleviate this constraint. Council's traffic engineers have assessed that these adjustments are not required for this proposed development and that the proposal is acceptable with regard to traffic impacts.

As indicated above, the proposal also complies with the maximum car parking rates under the DCP which acts as a limitation on the use of private motor vehicles.

Furthermore, the Applicant will be required to enter into a Planning Agreement with the State Government which will require the Applicant to pay \$10,000 per additional dwelling which is to contribute toward State infrastructure including:

- (a) *State and regional roads,*
- (b) *bus interchanges and bus lanes,*
- (c) *land required for regional open space,*
- (d) *social infrastructure and facilities (such as schools, hospitals, emergency services and justice purposes).*

Accordingly, the proposal is considered to be satisfactory with regard to potential impacts on the wider road network.

5.4.3 Overshadowing

The proposed additional storeys to each tower will increase overshadowing of some surrounding residential properties, primarily those within the Stage 1 residential towers to the south and existing lower level residential flat buildings on the western side of Marquet Street at Nos. 8 and 10-16.

The assessment in relation to the original DA demonstrated that the vast majority of apartments (approximately 86%) in the Marquet Street properties have living rooms and balconies off living rooms which face west and which will not be impacted by shadows cast from the proposed development.

Notwithstanding, some east-facing living rooms and balconies will be affected by additional overshadowing for short periods of the morning at midwinter although this is anticipated by the adopted built form control for the precinct, with which the proposal complies.

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It is also noted that although the additional building height above the LEP height limit will cast some additional shadow, it is the middle and upper parts of the towers, below the height limit that will cause the most shadow impact.

Whilst the shadows cast on the towers to the south in Stage 1 will affect more apartments, the impact will be of a lesser extent and those apartments will maintain opportunities for compliant solar access through the day.

Accordingly, on balance, whilst the proposal will result in some overshadowing impacts, this is anticipated by the LEP and DCP built form controls, with which the proposal is substantially compliant and considered acceptable in this instance.

5.4.4 Open Space and Landscaping

The proposal includes the addition of two communal rooms (one in each tower) and a rooftop communal space for each tower, which will increase the communal open space within the development by approximately 550m². This was in direct response to the DRP comments relating to internal residential amenity, given the uplift in apartment numbers.

These proposed communal spaces provide for a variety of passive recreational areas to suit the demands of future residents and are to be embellished with natural landscaping elements.

Furthermore, the s4.55(1A) modification to facilitate the additional tower floor levels (i.e. MOD2022/0040) includes an amended podium landscaping scheme which will increase the area allocated to the dog park, to cater for the likely additional pet ownership in the larger development.

As indicated above, notwithstanding that the green façade provisions of the DCP do not apply to development above 14m from the ground level, the proposal also includes extensive façade greening to Tower D which is considered to be an improvement over the previous scheme and will provide for a positive landscape outcome for future residents within the proposed development as well as other residents and visitors to the precinct more generally.

5.5 Suitability of the Site for Development

In accordance with section 4.15(1)(c) of the EP&A Act, the proposed development is generally in accordance with the planning controls that have been developed and adopted for the site and the locality in recent years and accordingly, the site is considered suitable for the proposed development.

5.6 Submissions

Pursuant to Section 4.15(1)(d) of the EP&A Act, it is necessary to consider submissions made in response to any public consultation undertaken in accordance with the Act or Regulation.

The proposal was publicly notified for 14 days ending on 13 July 2022 and fifty-nine (59) unique public submissions were received objecting to the proposal on the following grounds:

- **Building Height** – refer to discussion at **Section 5.3.6** of his report.
- **Overdevelopment/overcrowding** – whilst the proposal increases the residential density on the site, it complies with the statutory FSR under the LEP noting that this FSR was only recently increased as part of a detailed, precinct wide planning strategy. Accordingly, the proposal is consistent with the planning intent for the locality.
- **Traffic and Parking impacts** – refer to **Section 5.4.2**.
- **Public Open Space and Recreation facilities** – the Applicant is required to make monetary contributions and/or provide for the public recreation centre within the podium levels as part of the Planning Agreement that applies to the site. In addition, the additional residential floor space proposed under this DA will attract State infrastructure contributions which are intended for a broad array of public infrastructure improvements.

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- **Construction Impacts** – the proposal will extend the period of construction on the site and will therefore continue disturbance to residents and business in the locality. However, construction impacts are relatively short-lived compared to the life of the proposed development and as per the original DA for this site, can be minimised and mitigated through the implementation of detailed construction managements plans that were required as conditions of consent of the original DA, which is to be modified by the subject DA.
- **Wind impacts** – the Wind Impact Assessment prepared by RWDI and submitted with the DA concludes that the proposal will result in acceptable pedestrian amenity at the street level.
- **View loss** – the proposed additional storeys are likely to result in the loss of some distant views from the Stage 1 towers to the south of the site although as indicated in this report, the towers are generally consistent with the adopted LEP and DCP provisions such that these impacts were anticipated before the introduction of the planning controls over the past 12 months.
- **Overshadowing** – refer to **Section 5.4.3**.
- **Street Cleaning/Pollution** – the proposal does not give rise to any direct impacts relating to refuse within the public domain and the waste management plan submitted with the DA has been assessed as generally meeting Council's requirements for waste storage and collection, including bulk household waste subject to some design refinements which can be addressed via a condition of consent. Construction impacts can be managed via the existing conditions of DA2017/0544 (which is to be modified by this DA) of consent and any ongoing street cleaning in the Rhodes area is a matter for Council to respond to separately to this DA.
- **Dog facilities** – as indicated above, the s4.55(1A) application for changes to the podium landscaped areas will increase the provision for dog facilities within the development.
- **Infrastructure upgrades** – as indicated in this report, the site is serviced with all essential utilities and if approved, the subject de will be required to make monetary contributions (or works in kind) to local and State infrastructure and to make affordable housing contributions.

5.7 Public Interest

In accordance with section 4.15(1)(e) of the EP&A Act, the development as proposed to be modified is considered to be in the public interest as it will provide for additional residential accommodation generally in accordance with the recently adopted built for controls for the site without significant adverse environmental impacts.

6 Conclusion

DFP Planning has been commissioned to undertake an independent assessment of DA2022/0162 which seeks consent for alterations and additions to an existing building approved under DA2017/0544 to provide for additional residential floor levels to contain 273 residential apartments and infill of existing basement levels to provide for additional car parking.

The proposed development is permissible with consent in the B4 Mixed Use Zone pursuant to the LEP, is consistent with the objectives of that zone and complies with the FSR development standard under the LEP.

The proposal does not comply with the height of buildings, mix of dwellings and building separation development standards under the LEP although written requests to vary each of these standards have been provided by the Applicant and have been assessed as meeting the requirements of s4.6 of the LEP such that the consent authority can support the variations in this instance.

The proposed development is generally consistent with the relevant provisions of all applicable SEPPs and the DCP and has been assessed as being satisfactory in respect of any consequential built or natural environmental impacts.

Fifty-six (56) unique public submissions were received in respect of the application. The matters raised in submissions have been considered in this report and where impacts are considered likely, they have been assessed as being acceptable, manageable subject to conditions of development consent or not matters that warrant refusal of the application.

The DA must be determined by the SECPP as it entails a development with a CVI in excess of \$30 million.

Accordingly it is recommended that, the Sydney Eastern City Planning Panel:

1. Determine that the section 4.6 variations requests relating to height of buildings, mix of dwellings and building separation satisfactorily demonstrate that compliance is unreasonable and unnecessary in the circumstances of this case, that there are sufficient environmental planning grounds to justify each non-compliance and that, notwithstanding the non-compliances, the proposed development will be in the public interest.
2. Grant development consent pursuant to section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 to Development Application No. DA2022/0162 for alterations and additions to the approved mixed use development at 34 Walker Street, Rhodes comprising :
 - An additional 21 storeys to the approved Tower D;
 - An additional 11 storeys to the approved Tower E;
 - An FSR of 11.56:1;
 - An additional 273 residential apartments;
 - An additional 218 car parking spaces;

subject to the conditions of consent at **Attachment 1** including a condition requiring the modification of DA2017/0544 pursuant to section 4.17 of the Environmental Planning and Assessment Act, 1979.