

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	Panel Ref Number – PPSSEC-289 DA2023/0181
PROPOSAL	The project comprises demolishing, excavating for basements, and constructing a 32-storey mixed-use building with open spaces and landscaping including Stratum and Strata Subdivision.
SITE LEGAL DESCRIPTION	Lots 1-6 DP17671
ADDRESS	1-9 Marquet Street
APPLICANT	Deicorp Pty Ltd
OWNER	The Genesis Capital Holding Pty Ltd
DA LODGEMENT DATE	30 August 2023
APPLICATION TYPE	(DA, INTEGRATED under Water Management Act)
REGIONALLY SIGNIFICANT CRITERIA	The project holds a CIV exceeding \$30 million as outlined in Section 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 (PSSEPP). It is classified as a regionally significant development under Section 2.19 of the PSSEPP.
CIV	\$120,359,326.30 (excluding GST)
CLAUSE 4.6 REQUESTS	Not Applicable
KEY SEPP/LEP	<ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Canada Bay Local Environmental Plan 2013
TOTAL & UNIQUE SUBMISSIONS KEY	19 unique submissions

ISSUES SUBMISSIONS	IN	
DOCUMENTS SUBMITTED CONSIDERATION	FOR	<ul style="list-style-type: none"> • Statement of Environmental Effects (SEE) prepared by Gyde dated 8 August 2023 and appendices • Response to Council's RFI, dated December 2023 and appendices • Response to Council's RFI, dated 20 March 2024 and appendices • Updated SEE dated 3 April 2024
SPECIAL INFRASTRUCTURE CONTRIBUTIONS		Clause 6.9 CBLEP- Arrangements for designated State public infrastructure
RECOMMENDATION		Approval
DRAFT CONDITIONS TO APPLICANT		Attachment A
SCHEDULED MEETING DATE		9 May 2024
PLAN VERSION		28 March 2024 – Multiple revisions
PREPARED BY		City of Canada Bay Council
DATE OF REPORT		26 April 2024

EXECUTIVE SUMMARY

This report provides an assessment of a Development Application (DA 2023/0181) for a shop-top housing development at 1-9 Marquet Street, Rhodes, within the City of Canada Bay Council (Council) Local Government Area.

Council is satisfied that the site is suitable for the proposal and would enhance the Rhodes precinct's vibrancy while prioritising internal amenities and minimising adverse effects on neighbouring properties.

This report and the accompanying recommended conditions are submitted to the Sydney Eastern City Planning Panel (SECPP) for consideration of the application, due to a capital investment value exceeding \$30 million.

The site, situated in Rhodes West, consists of six single-storey brick houses on irregularly shaped allotments, bordered by Mary Street to the south, Marquet Street to the west, and high-rise mixed-use developments to the north and east. Approximately 150 meters west of Rhodes railway station, the area features medium to high-density mixed-use developments with commercial, retail, and residential spaces, conveniently located near Parramatta River, Brays Bay, and Rhodes Central Shopping Mall.

The proposal comprises demolishing existing buildings, excavating five basement levels accommodating 258 car parking spaces, and building a 32-storey shop-top housing development comprising commercial and retail tenancies, 214 residential apartments, and communal open spaces.

Emerging as the winner of a competitive design competition, the proposal underwent further refinement based on jury feedback before the DA with the refined design was lodged.

The development application satisfies Section 4.15(1) of the Environmental Planning and Assessment Act 1979, demonstrating compliance with environmental planning instruments, development control plans, and mitigation measures for potential impacts.

The DA was referred to various agencies and Council officers, the application garnered no objections subject to specified conditions.

The proposal, notified for 28 days, received 19 unique submissions. Concerns raised encompassed issues such as inconsistency with the context area, lack of infrastructure, overshadowing, traffic generation, pressure on limited on-street parking, pedestrian safety, and construction impacts.

Following a comprehensive review, the proposed development is deemed supportable, aligning with planning regulations and addressing potential impacts. It is recommended to approve Development Application DA2023/0181, subject to recommended conditions of consent attached to the report.

1. INTRODUCTION

This report provides an assessment of a Development Application (DA 2023/0181) for the construction of a shop-top housing development at 1-9 Marquet Street, Rhodes. The application is referred to the Sydney Eastern City Planning Panel (SECPP) as the proposed development has a capital investment value (CIV) over \$30 million.

1.1 The Site

The Site, known as 1-9 Marquet Street, Rhodes, is located in Rhodes West, a specialised centre in Canada Bay Local Government Area (LGA). **Figure 1** shows the site's regional context.

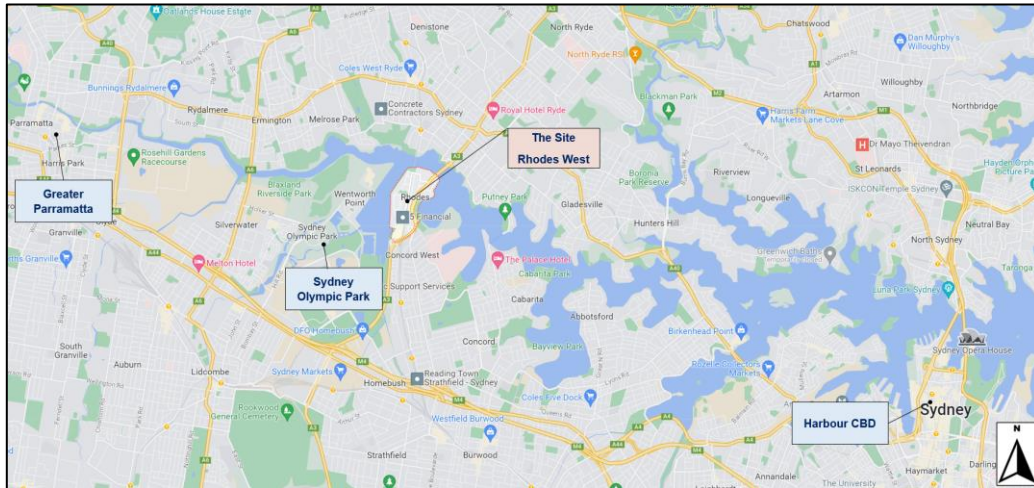


Figure 1 | Regional context map (Source: Nearmap 2023)

The site consists of six single-storey brick houses, each situated on its own individual allotments. It has an area of 2917 square meters and is irregular in shape. It is Located at the corner of Mary Street and Marquet Street and is bounded by Mary Street to the south, Marquet Street to the west, and high-rise mixed-use developments to the north and east. The local context of the site is provided in **Figure 2**.

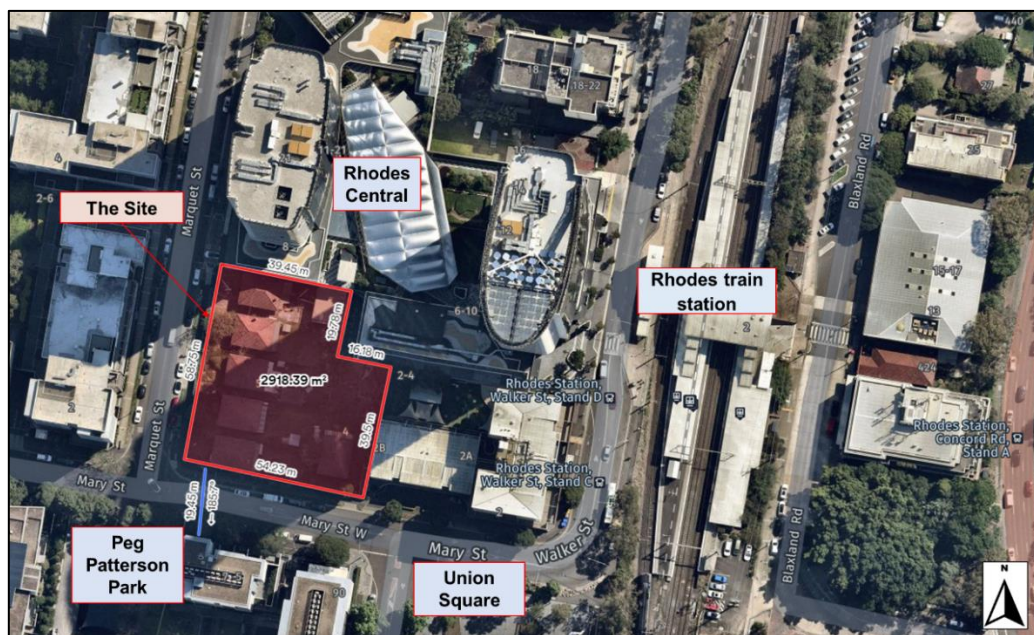


Figure 2 | Site location – local context (Source: Nearmap 2023)

1.2 The Locality

The site sits about 150 meters west of Rhodes railway station. The surrounding area is primarily characterised by medium to high-density mixed-use developments, incorporating commercial, retail, and residential spaces. The Site is conveniently close to Parramatta River in the west, Brays Bay in the east, and Rhodes Central Shopping Mall in the northeast. **Figure 3** illustrates the development characteristics of the surrounding area.



Figure 3 | Site context – street view (Source: Applicant's SEE, 2024)

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The key components and features of the proposal set out in the Statement of Environmental Effects (SEE) and refined in the response to request for further information (RFIs) are provided in **Table 1**.

Table 1 | Main components of the proposal

Aspect	Description
Project summary	Demolition of existing buildings, fencing, sheds and removal of trees on site Excavation for 5 basement levels with vehicular access via Marquet Street Construction of a 32-storey shop-top housing development containing: <ul style="list-style-type: none">– Podium containing commercial and retail tenancies from the ground floor to level 3– Tower containing 214 residential apartments above the commercial tenancies at level 1 to level 31– Communal open space on level 1 and level 4 Landscape works, including tree replacement.
Site area	2917 sqm
Proposed GFA	23002 sqm
Proposed Non-Residential GFA	3,830 sqm
No of apartments	214 residential apartments Unit Mix: <ul style="list-style-type: none">– 48 x one-bedroom apartments 22%– 123 x two-bedroom apartments 57.5%– 43 x three-bedroom apartments 20.1%
Proposed Height	Podium height between 14m to 16m Tower height of 111.49m
Proposed Landscaped area	2769 sqm Zero deep soil area 558 sqm planting over the slab
Communal Open Space	Total 996 sqm – 34% of total site area <ul style="list-style-type: none">– Level 1 – 281 sqm– Level 4 – 715 sqm

Parking spaces	<ul style="list-style-type: none"> – 258 Car Parking – 358 Bicycle Parking + 197 of storages can be used as bicycle storage – 8 Motorcycle Parking 8
Setbacks	Zero setbacks
CIV	\$120,359,326.30

The proposed works are also shown in **Figures 4 - 8**.

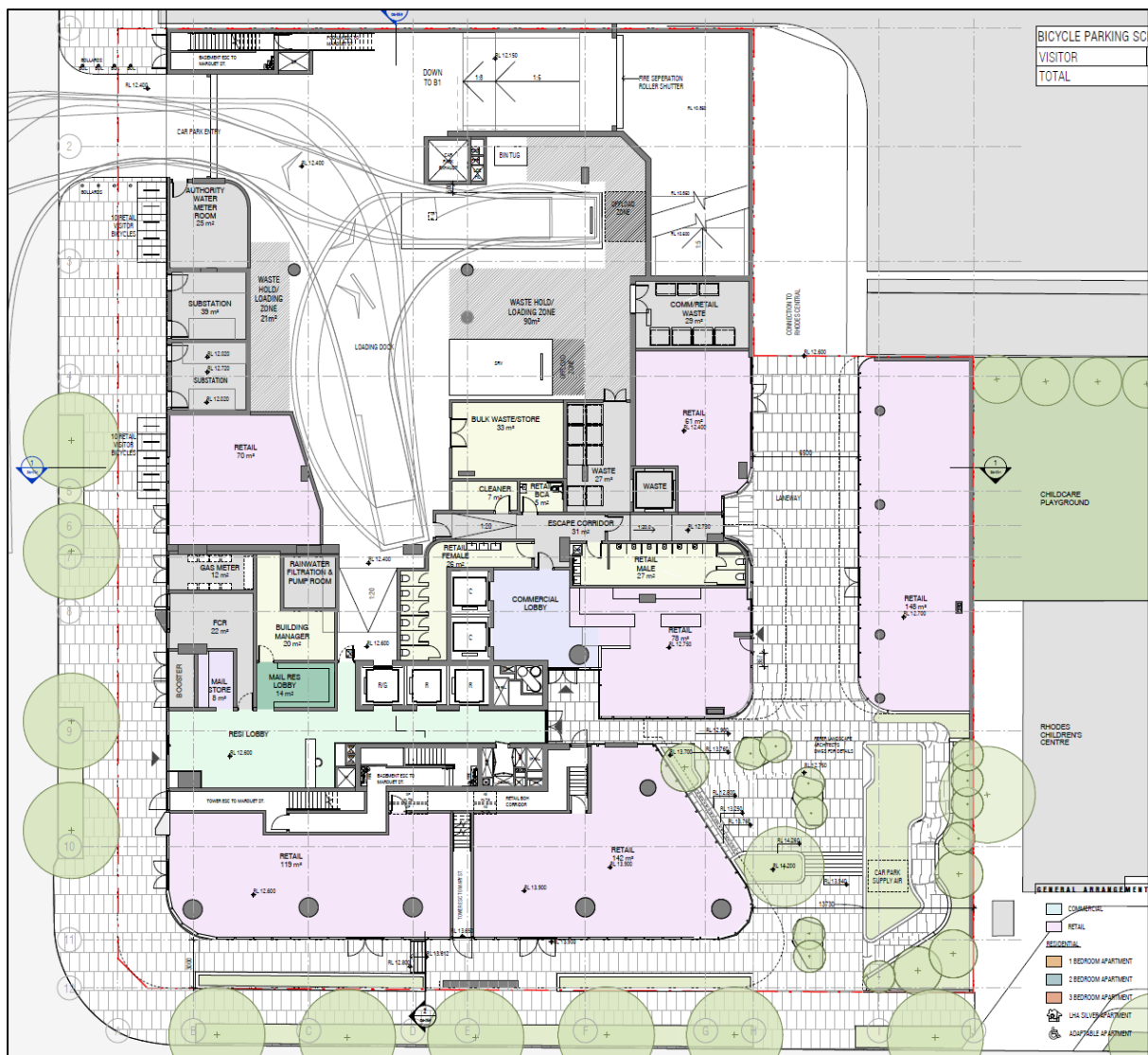


Figure 4 | Proposed ground floor (Source: Applicant's Architectural Plans Rev D dated 28 March 2024)

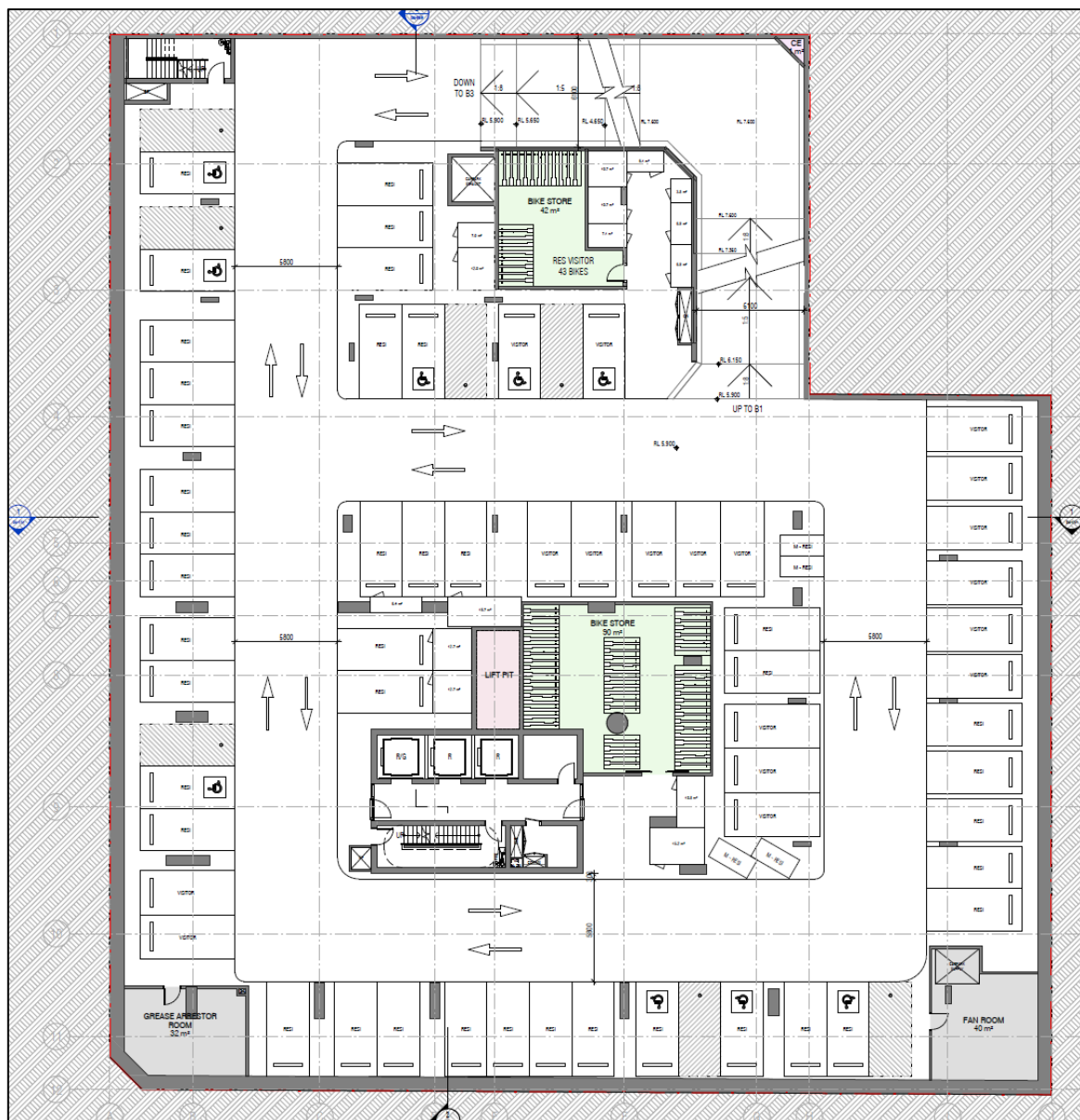


Figure 5 | Proposed Basement 02 (Source: Applicant's Architectural Plans Rev D dated 28 March 2024)



Figure 6 | Proposed level 3, 5-9, 11-17 (Source: Applicant's Architectural Plans Rev D dated 28 March 2024)

Figure 7 | Proposed West Elevation (Source: Applicant’s Architectural Plans Rev D dated 28 March 2024)

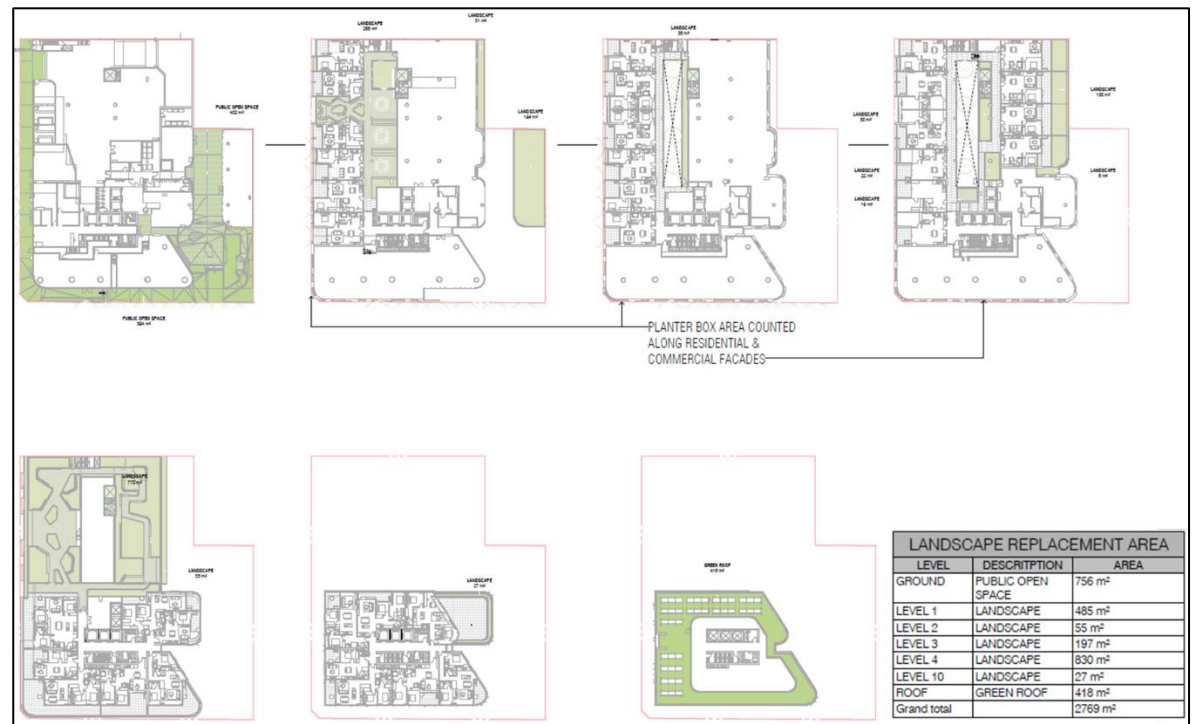


Figure 8 | Landscaped area (Source: Applicant’s Landscape Drawings Revision B dated 15 December 2023)

2.2 Background

The proposal has been the subject of a competitive design competition in accordance with Clause 7.2 of the Canada Bay Local Environmental Plan 2013 (CBLEP 2013). The competition was undertaken in the form of an invited single-stage design competition with participation from three architectural firms listed below:

- DKO Architecture (DKO)
- Fender Katsalidis (FK)
- Turner Studio (Turner)

On 21 April 2023, the jury selected the FK scheme as the competition winner, with further design refinement required based on jury feedback. The DA with the refined design was lodged on 30 August 2023.

A chronology of the development application since lodgement is outlined below including the Panel’s involvement (briefings, referrals etc) with the application:

Table 2 | Chronology of the DA

Date	Event
30 August 2023	DA lodged
19 September to 17 October 2023	Exhibition of the application

7 September 2023	DA referred to external agencies (CNR-59802)
24 October 2023	First Sydney Eastern City Planning Panel (Panel) briefing
14 November 2023	Request for Information from Council to applicant (RFI)
18 December 2023	Applicant provided response to first RFI
5 February 2024	Design Integrity Panel (DIP) meeting
6 March 2024	Re-referred to WaterNSW (CNR-66423)
20 March 2024	Second RFI
27 March 2024	Applicant provided response to second RFI
18 April 2024	Second Panel briefing

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include **Table 3**.

Table 3 | Chronology of the DA

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Council's consideration of the relevant EPIs is provided in Section 3.1 of this report.
(a)(ii) any proposed instrument	Nil
(a)(iii) any development control plan	Satisfactorily complies. The Council's consideration of the DCP is provided in Section 3.2 of this report.
(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into	There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.
(a)(iv) the regulations	These provisions of the EP&A Regulation have been thoroughly reviewed, and any necessary actions are addressed in the recommended conditions.
(a)(v) (Repealed)	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The likely impacts of the development have been appropriately mitigated or conditioned.
(c) the suitability of the site for the development	The proposed development is generally in accordance with the planning controls that apply to the site and the locality. Accordingly, the site is considered suitable for the proposed development.
(d) any submissions	19 public submissions were received. Consideration has been given to all submissions and to the advice from Government agencies (Sections 3.3 and 4.1).
(e) the public interest	The proposed development is considered to be in the public interest as it will provide commercial and residential accommodation without significant adverse environmental impacts.

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

3.1 Section 4.15(1)(a) (i) the provisions of any environmental planning instrument

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canada Bay Local Environmental Plan 2013

A summary of the key matters for consideration arising from these State Environmental Planning Policies (SEPP) are outlined in **Table 4**.

Table 4 | Summary of applicable SEPP

SEPP	Matters for Consideration	Comply (Y/N)
SEPP (Biodiversity and Conservation) 2021 (BCSEPP)	<ul style="list-style-type: none"> – Chapter 2 Vegetation in non-rural areas The DA seeks consent for the removal of 16 trees. The application is supported by the Arboricultural Assessment Report prepared by Raintree Consulting, which has been reviewed by Council's tree management team who have no objections to the removal of the trees, provided that appropriate replacements are proposed within the landscape plan. – Chapter 6 Water catchments In accordance with Part 6.3 of the BCSEPP, the site falls within the foreshore or waterways area. The proposal is considered to be in line with the general considerations outlined in Section 6.28(1) and (2) of the BCSEPP. 	Yes
SEPP (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)	<p>BASIX SEPP applies to residential portion of the development (levels 1 to 31). The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.</p> <p>The application is accompanied by BASIX Certificate No. 1411650M prepared by Windtech dated 4 August 2023 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.</p>	Yes

<p>SEPP (Housing) 2021 (Housing SEPP)</p>	<p>This DA is subject to the design regulations outlined in Chapter 4 of the Housing SEPP, governing residential apartment development. As part of the assessment process, the application was referred to the Design Integrity Panel (DIP) in line with the Government Architect NSW Design Competition Guidelines, September 2023, seeking advice on the design quality. recommended including the following condition in any development consent issued:</p> <p><i>"Calibration of the vertical sun shading and vision glass panels is to undergo further refinement during the design development phase for the construction certificate, to the satisfaction of the project architect."</i></p> <p>The application's design quality has been evaluated against the principles outlined in Schedule 9 of the SEPP Housing and the Apartment Design Guide (ADG). It is concluded that the proposal successfully fulfils both the design principles and objectives set forth in the ADG.</p> <p>Council has undertaken a detailed assessment of ADG and is satisfied the application is consistent with objectives of the ADG controls. Table 5 below only identifies where compliance is not fully achieved</p>	<p>Yes</p>
<p>SEPP (Resilience and Hazards) 2021 (RHSEPP)</p>	<p>Section 4.6 of the RHSEPP mandates consideration of site suitability prior to granting consent for the application.</p> <p>The application is associated with a Detailed Site Investigation (DSI). The DSI, conducted by EI Australia and concluded that there is no contamination within the site area.</p> <p>The DSI was reviewed by the Council's Environmental Health Unit, which recommended appropriate conditions of consent to ensure the suitability of the site for its proposed future use.</p> <p>The provisions of Chapter 4 of the RHSEPP have been considered in the assessment of the development application. Section 4.6 of the RHSEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, the application is associated with a Detailed Site Investigation (DSI). The DSI, conducted by EI Australia and concluded that there is no contamination within the site area.</p> <p>The DSI was reviewed by the Council's Environmental Health Unit, which recommended appropriate conditions of consent to ensure the suitability of the site for its proposed future use.</p>	<p>Yes</p>

SEPP (Planning Systems) 2021 (PSSEPP)	The proposal is deemed regionally significant development under Section 2.19 of the PSSEPP due to its CIV exceeding \$30 million and the Sydney Eastern Planning Panel is the determining authority for the DA.	Yes
SEPP (Transport and Infrastructure) 2021 (TISEPP)	<p>This DA is subject to Section 2.48 of the TISEPP for Developments likely to affect an electricity transmission or distribution network. The DA was referred to the local electricity service provider, Ausgrid, who raised no objections and provided comments and conditions.</p> <p>Section 2.100 applies as the site is adjacent to the T9 railway corridor and comprises residential accommodation. The DA is accompanied by an Acoustic Impact Assessment (AIA) prepared by Acoustic Logic, which demonstrates that noise impacts associated with the development from adjacent rail lines are mitigated to acceptable levels. The AIA was reviewed by the Council Environmental Health Unit, who provided appropriate conditions of consent.</p> <p>The development has been classified as Traffic-generating development under Section 2.122. Written notice was provided to TfNSW, who had no objections to the development. The application is supported by a Transport Impact Assessment (TIA), which was reviewed by the Council's traffic engineering team, who provided appropriate conditions.</p>	Yes

Table 5 | Application performance against Apartment Design Guide (ADG)

ADG requirement	Proposal	Compliance
Siting the Development		
3E Deep soil zones Minimum area = 7% of site area. Preferred area = 15%. If the site is between 650 m ² to 1,500 m ² then minimum dimensions of 3 m. If over 1,500 m ² then minimum dimensions of 6 m.	Due to the site's location in a high-density area, achieving deep soil planting poses challenges, especially considering the proposed excavation for five basement car parking levels. Instead, the proposal offers acceptable planting solutions with varying depths implemented on slabs.	Acceptable
40 Landscape design - site area >1,500 m ² = 1 large tree or 2 medium trees per 80 m ² of deep soil zone.	The DA application includes landscape plans featuring ample planting areas both on the structure and within the public realm.	Acceptable

The relevant local environmental plan applying to the site is the Canada Bay Local Environmental Plan 2013 (CB LEP). The CB LEP aims to achieve high-quality urban form by ensuring that new development reflects the existing or desired future character of particular localities. The proposal is consistent with these aims. The LEP contains several development standards which apply to the proposed development. An assessment of the application against the relevant planning controls within BLEP 2012 is shown in **Table 6**.

Table 6 | Consideration of the LEP controls

Control	Proposal	Comply
2.2 and 2.3 Zoning and Objectives MU1-Mixed Use Objectives of zone <ul style="list-style-type: none"> • To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities. • To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. 	The proposed Shop-top housing is a permissible use with consent in MU1 Zone. The proposal is considered to be consistent with the zone objectives by featuring 6 retail/café/restaurant units at ground level and 6 commercial/office spaces from level 1 to level 3, generating employment near multiple public transport options. It enhances street activity through active frontage on Marquet Street and Mary Street, complemented by the introduction of an eastern connection laneway, fostering pedestrian interaction and connectivity with surrounding mixed-use areas.	Yes
2.6 Subdivision (1) Land to which this Plan applies may be subdivided, but only with development consent.	Development consent has been sought	Yes
2.7 Demolition The demolition of a building or work may be carried out only with development consent.	Development consent has been sought.	Yes
4.3 Height of Buildings Maximum 113m	The proposed building height reaches a maximum of 111.49m.	Yes
4.4 Floor Space Ratio Maximum 7.9:1	The proposed development features a gross floor area (GFA) of 23,052 sqm, resulting in a floor space ratio (FSR) of 7.9:1.	Yes

6.2 Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The proposal includes ancillary excavation of the site to accommodate five basements.

Stringent conditions of consent have been imposed to ensure that these proposed earthworks do not adversely affect environmental functions and processes, neighbouring land uses, or features of the surrounding area. This includes careful consideration of drainage patterns and soil stability in the vicinity of the development.

The conditions address the quality of fill material or the exportation of excavated soil, ensuring compliance with relevant EPA guidelines to minimise any potential negative impacts.

Also, conditions are in place to safeguard the amenity of adjoining properties during the construction activity.

To mitigate potential adverse impacts on water resources, approval has been sought from WaterNSW with General Terms of Approval to be incorporated into any consent.

6.5 Active street frontages

(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages.

(2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.

The ground floor frontages of the site along Marquet Street and Mary Street have been designated as 'Active Street Frontages' under Clause 6.5 of CB LEP. The proposal effectively incorporates active street frontages on both Marquet Street and Mary Street through ground-floor retail uses.

Yes

<p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—</p> <p>(a) entrances and lobbies (including as part of mixed use development),</p> <p>(b) access for fire services,</p> <p>(c) vehicular access.</p> <p>(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of amusement centres, centre-based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, function centres, industrial retail outlets, information and education facilities, light industries, medical centres, mortuaries, public administration buildings, recreation facilities (indoor), registered clubs or veterinary hospitals.</p>	<p>The placement of the residential lobby and vehicular access facing Marquet Street aligns with the provisions outlined in subclause (4).</p>
<p>6.9 Arrangements for designated State public infrastructure</p> <p>(Clause has since been repealed but remains relevant to this DA)</p> <p>(2) Despite all other provisions of this Plan, development consent must not be granted for development for the purposes of residential accommodation (whether as part of a mixed use development or otherwise) in an intensive urban development area that results in an increase in the number of dwellings in that area, unless the Secretary has certified in writing to the consent authority that satisfactory arrangements</p>	<p>Clause 6.9 of the CB LEP was repealed on 1 October 2023, but it remains applicable to this application since it was lodged before this date.</p> <p>The site has been identified as an Intensive Urban Development Area under CB LEP.</p> <p>Satisfactory arrangements need to be made for the provision of designated State public infrastructure.</p> <p>The DA was referred to the Department of Planning, Housing and Infrastructure (DPHI), who certified that satisfactory arrangements have been made to</p>

<p>have been made to contribute to the provision of designated State public infrastructure in relation to the land on which the development is to be carried out.</p> <p>(3) This clause does not apply to development on—</p> <p>(a) land in an intensive urban development area if all or part of the land is in a special contributions area, or</p> <p>(b) land identified as “Burwood-Concord Precinct”, “Homebush North Precinct” or “Kings Bay Precinct” on the Key Sites Map.</p> <p>(4) In this clause and clause 6.10—</p> <p>intensive urban development area means the area of land identified as “Intensive Urban Development Area” on the Intensive Urban Development Area Map.</p>	<p>contribute to the provision of designated State public infrastructure (SVPA2023-100 dated 28 February 2024).</p>	
<p>6.10 Public Utility Infrastructure</p> <p>(1) Development consent must not be granted for development on land in an intensive urban development area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.</p> <p>public utility infrastructure, in relation to an intensive urban development area, includes infrastructure for any of the following—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage.</p>	<p>The site is identified within an Intensive Urban Development Area according to CB LEP. The Application was referred to Ausgrid and Sydney Water, with Ausgrid providing arrangements for electricity supply and Sydney Water confirming water and wastewater servicing potential, subject to minor adjustments, with detailed requirements to be provided during the S73 application stage.</p>	<p>Yes</p>
<p>6.11 Mix of dwelling sizes in residential flat buildings and mixed use development</p> <p>(1) The objectives of this clause are as follows—</p>	<p>The following mix is provided:</p> <p>48 x one-bedroom apartments 22.4%</p> <p>123 x two-bedroom apartments 57.5%</p>	<p>Yes</p>

<p>(a) to ensure the provision of a mix of dwelling types in residential flat buildings and provide housing choice for different demographics, living needs and household budgets,</p> <p>(b) to promote development that accommodates a range of household sizes.</p> <p>(2) This clause applies to development for the following purposes that results in at least 10 dwellings—</p> <p>(a) residential flat buildings,</p> <p>(b) mixed use development that includes shop top housing.</p> <p>(3) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will be studio or 1 bedroom dwellings, and</p> <p>(b) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will have at least 3 bedrooms.</p>	<p>43 x three-bedroom apartments</p> <p>20.1%</p>	
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<p>6.12 Affordable housing</p> <p>(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).</p> <p>(2A) The affordable housing levy contribution for development in Area 4 is 3.5% of the relevant floor area that exceeds the floor space achieved by applying a floor space ratio of 1.76:1.</p>	<p>The site is located within an affordable housing contribution area.</p> <p>the land identified as “Area 4” on the Additional Local Provisions Map.</p> <p>The Applicant has opted to fulfill Clause 6.12 through a monetary contribution made to the Council.</p>	<p>Yes</p>
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Part 7 Rhodes Precinct

<p>7.1 Objectives of Part</p> <p>The objectives of this Part are as follows—</p>	<p>The development is generally in line with the objectives of Part 7 of the LEP, as it attains design excellence through a rigorous</p>	<p>Yes</p>
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- (a) to achieve the highest standard of architectural and urban design in the Rhodes Precinct by ensuring that new development exhibits design excellence, including excellence in sustainably managing the environmental impact of the development on existing and future populations,
 - (b) to allow for a mix of land uses that will—
 - (i) provide an appropriate balance between residential, retail, commercial and other land uses within the Rhodes Precinct, and
 - (ii) encourage the provision of a range of services and facilities to help meet the needs of the population and users of the Rhodes Precinct, and
 - (iii) generate employment in the Rhodes Precinct, and
 - (iv) establish a significant new people-oriented public domain and foreshore area and other vibrant public plazas and public spaces,
 - (c) to support growth in the Rhodes Precinct by ensuring the provision of appropriate infrastructure that is sensitive to environmental impacts.
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design competition process and ongoing review by a design integrity panel. Upon completion, it will offer a diverse mix of land uses, including residential, retail, and commercial spaces, meeting the diverse needs of the community and fostering employment opportunities.

Additionally, the proposal includes plans for vibrant public spaces and communal open areas, enhancing the appeal of the Rhodes precinct. Overall, it is considered that the proposed development represents a suitable development for the area.

7.2 Design Excellence in Rhodes Precinct

- (3) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
 - (c) whether the development detrimentally impacts on view corridors,
 - (d) how the development addresses the following matters—

A design competition preceded the lodgement of the development application (DA), during which the Jury selected the scheme with the greatest potential for design excellence. Following the competition, a Design Integrity Panel (DIP) was established to oversee the design's evolution in alignment with DIP/Jury recommendations.

Throughout the DA assessment process, DA was presented to DIP and Council sought advice from the DIP regarding design quality. The DIP confirmed that the DA design exhibited excellence, and their final recommendation was to include a condition in any issued development consent as follows:

<ul style="list-style-type: none"> (i) the requirements of a development control plan made by the Council and applying to the land on the commencement of this clause, (ii) the suitability of the land for development, (iii) existing and proposed uses and use mix, (iv) heritage issues and streetscape constraints, (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, (vi) bulk, massing and modulation of buildings, (vii) street frontage heights, (viii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity, (ix) the achievement of the principles of ecologically sustainable development, (x) pedestrian, cycle, vehicular and service access, circulation and requirements, (xi) the impact on, and any proposed improvements to, the public domain, (xii) achieving appropriate interfaces at ground level between the building and the public domain, (xiii) excellence and integration of landscape design. 	<p>"The calibration of the vertical sun shading and vision glass panels must undergo further refinement in the design development phase for construction certificate approval, to the satisfaction of the project architect."</p>
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7.3 Overshadowing of public places in Rhodes Precinct

(1) Development consent must not be granted to development that results in a building causing additional overshadowing of a public place identified on the Sun Access Protection Map on 21 June in any year, during the time specified for the public place in the following table—

<p>The shadow analysis drawings, numbered DA-400 and DA-401, Revision A, prepared by FENDER KATSALIDIS on July 28, 2023, demonstrate compliance with Clause 7.3.</p>	<p>Yes</p>
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Public place

Peg Patterson Park Middyay–
2pm

Union Square 9am–2pm

(2) Subclause (1) does not prevent the granting of development consent to development that results in a building in Area 4 causing additional overshadowing of Union Square on 21 June in any year, between 1:30pm and 2pm.

7.4 Minimum non-residential floor space in Rhodes Precinct

A minimum of 16.4% non-residential FSR is required.
3,830 sqm non-residential GFA is proposed.

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.

7.6 Maximum height of building podiums in Rhodes Precinct

Development consent must not be granted to development that results in the podium of a building in the Rhodes Precinct being higher than 16 metres.

The proposed podium height complies with the maximum 16 meters.

7.7 Maximum number of dwellings in Rhodes Precinct

(1) Development consent must not be granted to development that

214 dwellings are provided and will be recorded by Council Noted

results in more than 3,000 dwellings in the Rhodes Precinct.

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—

(a) for commercial premises other than retail premises—1 space per 150 square metres of gross floor area used for that purpose,

(b) for retail premises other than restaurants or cafes—1 space per 100 square metres of gross floor area used for that purpose,

(c) for restaurants or cafes—1 space per 150 square metres of gross floor area used for that purpose,

(d) for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing—

(i) 0.6 spaces per studio dwelling, and

(ii) 0.6 spaces per dwelling with 1 bedroom, and

(iii) 0.9 spaces per dwelling with 2 bedrooms, and

(iv) 1.4 spaces per dwelling with 3 or more bedrooms, and

(v) 1 visitor car parking space per 7 dwellings.

The application includes a Transport Impact Assessment conducted by JMT Consulting and reviewed by the Council Traffic team. A total of 258 car spaces are provided, allocated as follows:

- 200 for residential use
- 30 for visitors

S & 1B (48 X 0.6) = 28.8

2B (123 X 0.9) = 110.7

3B (43 X 1.4) = 60.2

Visitor (214/7) = 30.5

230 residential

- 6 retail premises spaces

626sqm retail / 100 = 6.26

- 20 commercial spaces

3204sqm / 150 = 21.36

- 2 service vehicle spaces

From which 51 car spaces are accessible parking

- 47 residential (for 43 livable units from which 32 units are adaptable)
- 2 visitors
- 1 commercial
- 1 retail

Yes

7.9 Water reticulation systems for buildings in Rhodes Precinct

Development consent must not be granted to the erection of a building in the Rhodes Precinct unless the building utilises a dual water reticulation system containing pipes for potable water and

This requirement will be conditioned upon approval.

Compliance will be achieved upon fulfillment of the conditions of consent.

recycled water for all internal and external water uses.

7.10 Site area of proposed development in Rhodes Precinct includes dedicated land

The site area of proposed development on land in the Rhodes Precinct is, for the purpose of applying a floor space ratio under clause 4.5, taken to include land that—

- (a) is dedicated to the Council for a public purpose or otherwise set aside as publicly accessible open space or as a pedestrian link, and
 - (b) would have been part of the site area if it had not been dedicated or set aside.
-

No portion of this area was required to be dedicated to the Council. Noted

The maximum Floor Space Ratio applies to the entire site area.

The proposal is considered to be generally consistent with the CB LEP.

3.2 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- the City of Canada Bay Development Control Plan ('the DCP')
 - Art A – Introduction
 - Part B - General Controls
 - Part K - Special Precincts
 - Part L – Definitions
 - Appendix 2 - Engineering Specifications

Table 7 provides a summary assessment of the proposed development against the relevant provisions of the DCP.

Table 7 | Consideration of the DCP controls

Control	Proposal	Comply
K17.3 General controls		
A. Public domain	<p>The proposal contributes to establishing a continuous pedestrian network through the laneway with the public rights of way/access.</p> <p>The recommended conditions of consent implement the provision of CCTV surveillance to promote security and safety.</p> <p>The proposal includes providing public domain amenities, including a paved footpath and street trees along Mary and Marquet Street in front of the site.</p> <p>Suitable conditions of consent have been</p>	Yes

	recommended to ensure the delivery of high-quality public domain amenities. The recommended conditions of consent necessitate the design and implementation of public art.	
B. Private domain	<p>B1. Land Use – The proposal aligns with the mixed-use nature of land uses of the site.</p> <p>B2. Built Form – The proposal complies with the DCP building envelope controls.</p> <p>B3. Building Bulk – The proposal generally complies with the ADG requirements which prevail in this instance.</p> <p>B4. Setbacks – The proposal adheres to site-specific street setback controls (3m minimum tower setback and 4m maximum building setback). And build-to the line adjoining the property to the north.</p> <p>B.5 Definition of streets and open spaces –The proposal's design response, incorporating a 3m setback to the street at the ground level with the projection of level one as a cantilevered floor, is considered a suitable approach to the public domain interface.</p> <p>B6. Building Articulation and address – The proposal demonstrates building articulation with a slender tower through the use of entry porches, balconies, and sun shading devices, adhering to controls aimed at creating visually interesting buildings and promoting a slimline appearance while avoiding excessive bulkiness.</p>	Yes
K17.4 Site-specific controls		
Precinct D (Station Gateway West)	The proposed development incorporates suitable urban design elements, including pedestrian connections and communal open spaces. It aligns with DCP controls for building setbacks, tower heights, podium typology, and maximum gross floor area, demonstrating full compliance.	Yes

The proposal is considered to be generally consistent with the relevant provisions of the DCP.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- City of Canada Bay Local Infrastructure Contributions Plan, Adopted 15 February 2022

This Contributions Plan has been considered and included the recommended draft consent conditions.

3.3 Section 4.15(1)(d) - Public Submissions

The proposal was notified from 15 September 2023 until 13 October 2023. Council received 19 unique submissions.

The issues raised in these submissions are considered in **Table 8**.

Table 8 | Summary of public submissions

Issue	Response
Inconsistency with the context area	The proposed development aligns with the envisioned character of the area by facilitating connectivity, enhancing greenery with a significant increase in tree cover, and integrating well-designed buildings and public spaces that encourage pedestrian activity and public transport use, while preserving the visual appeal of the skyline and preventing overshadowing of nearby parks.
Lack of the social, educational, and transport infrastructure in the locality	The concerns raised regarding the social, educational, and transport infrastructure in the locality fall outside the scope of the proposed development application. These broader considerations were thoroughly evaluated by the state government during the strategic study of the locality. The proposed development adheres completely to the height and density regulations.
Overshadowing of the adjoining private properties and public area	The shadow diagrams, prepared by FK and accompanying the application, analyse the proposed development's overshadowing impacts. They demonstrate that the overshadowing of adjoining public and private areas is within acceptable levels and complies with the relevant LEP and DCP control requirements.
Traffic generation and adverse impacts on the local network Exacerbating the insufficient on-street parking spaces in the area Pedestrian safety on Walker Street	The traffic assessment conducted by JMT Consulting, within the broader context of the Rhodes Place Plan, indicates that the proposed development's impact on traffic generation falls within acceptable thresholds. The proposed development, which includes 258 on-site car spaces, is considered adequate to accommodate the needs of the development without exerting further pressure on on-street car parking. The delivery of a crossing between Rhodes Central and Rhodes Train Station falls outside the scope of the proposal.

Insufficient building separation which would cause loss of privacy	The proposed development complies with all the relevant controls. Additionally, various measures outlined in the design, such as solid balustrades, screening devices, and raised private spaces, are implemented to effectively manage privacy impacts to and from neighbouring properties, ensuring sufficient mitigation.
Construction impacts	To address the probable impacts of the proposed development during construction, appropriate conditions of consent would be imposed to ensure comprehensive monitoring, control and mitigation of all construction-related concerns, including but not limited to traffic, noise, vibration, and dust. Prior to commencement, a dilapidation survey would be conducted to assess existing conditions, and any subsequent damages would be the liability of the developer, thus ensuring responsible management of construction impacts.

4. REFERRALS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 9**.

Table 9: Concurrence and Referrals to agencies

Date	Comments/Conditions
Ausgrid	no objections subject to conditions.
Sydney Trains	no objections.
Air Services Australia	no response.
Transport for NSW	no objections.
Sydney Water Corporation	no objections subject to conditions.
WaterNSW	WaterNSW provided the General Terms of Approval (GTA) on 3 May 2024, and it has been incorporated into the recommended conditions.
Department of Planning, Housing and Infrastructure (DPHI)	certify that satisfactory arrangements have been made.

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review, as outlined in **Table 10**.

Table 10: Consideration of Council Referrals

Date	Comments/Conditions
Traffic	no objections subject to conditions.
Engineering	no objections subject to conditions.
Building	no objections subject to conditions.
Environmental Health Unit	no objections subject to conditions.
Waste	no objections subject to conditions.
Landscape	no objections subject to conditions.
GIS	no objections subject to conditions.

5. CONCLUSION

This development application has been thoroughly reviewed in accordance with the requirements of the EP&A Act and Regulations, as detailed in this report. After careful consideration of relevant planning controls and submissions, the application is deemed supportable.

Situated in an area with excellent access to public transport, the inclusion of non-residential floor space in the podium levels and the provision of a pedestrian thoroughfare on-site will enhance the vibrancy of the Rhodes precinct.

Furthermore, the proposed design ensures high-quality development, prioritising internal amenity for future occupants while minimising adverse impacts on neighbouring properties. Any potential impacts during construction and operation will be appropriately addressed through the recommended conditions of consent outlined in Attachment A.

6. RECOMMENDATION

THAT the Sydney Eastern City Planning Panel grants Consent to the Development Application DA2023/0181 for demolishing the existing structure, excavating for basements, and constructing a 32-storey mixed-use building with open spaces and landscaping at 1-9 Marquet Street pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the recommended conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Recommended Conditions of Consent
- Attachment B: Architectural Plans
- Attachment C: Public Submissions