

ORDINARY COUNCIL MEETING

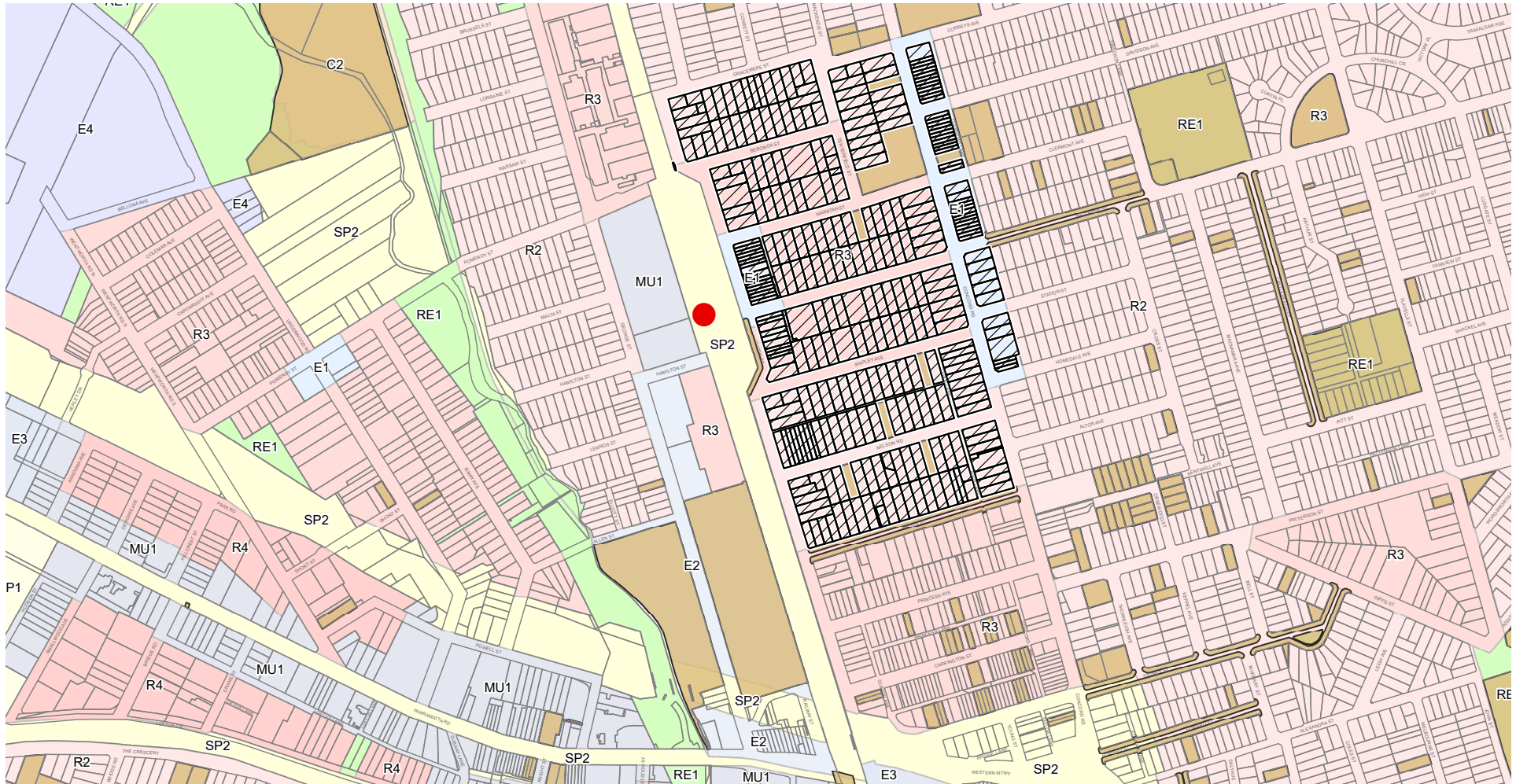
ATTACHMENTS BOOKLET

Under Separate Cover

Tuesday, 3 December 2024

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North Strathfield Metro Station TOD



- North Strathfield Station
- Included Sites/Lots within TOD Catchment Area
- Cadastre 10/10/2024 © Spatial Services

Land Zoning

| | |
|------------------------------|---------------------------------|
| E1 - Local Centre | R3 - Medium Density Residential |
| E2 - Commercial Centre | R4 - High Density Residential |
| E4 - General Industrial | RE1 - Public Recreation |
| MU1 - Mixed Use | SP2 - Infrastructure |
| R2 - Low Density Residential | |

Heritage

| | |
|---|--------------------------|
| Aboriginal Object | Item - Archaeological |
| Aboriginal Place of Heritage Significance | Item - General |
| Conservation Area - Aboriginal | Local Heritage - General |
| Item - Aboriginal | |

Intended Map Size:
Coordinate System: GDA 1994 MGA Zone



19 August 2024

Hon. Paul Scully MP
Minister for Planning and Public Spaces
GPO Box 5341
SYDNEY NSW 2001

Dear Mr Scully MP,

City of Canada Bay Submission

Homebush Transport Oriented Development Precinct

This submission has been prepared in response to the exhibition of the Explanation of Intended Effect (EIE) for the Homebush Transport Oriented Development Precinct (TOD Precinct).

The Homebush TOD Precinct will develop over the next 20 years and will result in built form that will remain in place for up to 100 years. Good places take time to design and the timeframe to finalise the Homebush TOD Precinct is inadequate to provide confidence that the best possible outcome will be achieved for existing and future residents.

Despite the accelerated nature of the TOD Program, this submission provides feedback and recommendations to the Department of Planning, Housing and Infrastructure (DPHI) to achieve better outcomes than those outlined in the EIE.

Whilst Council is supportive of increasing density within the vicinity of high frequency public transport, changes to the planning framework should only occur where positive outcomes for the community will be delivered. The proposal to locate over 25% of all dwellings (up to 16,100 dwellings) identified under the 8 accelerated TODs in a single precinct (Homebush TOD) is excessive. The Homebush TOD precinct is characterised by limited and highly constrained east-west transport connections, flooding, and inadequate and aging infrastructure (drainage, key intersections and rail overbridges). Council completed comprehensive planning for the implementation of PRCUTS Stage 1 within the required timeframes, and the quantum of development now proposed for this TOD is well in excess of what can reasonably be accommodated in this relatively constrained location.

16,100 new dwellings equates to approximately 40,000 people, with approximately 26,000 of these residents located within the City of Canada Bay under the proposed plans. There has been no identification of, or commitment to, any additional public school, health, or any other regional infrastructure to support this anticipated population increase. It is imperative that commitment to this essential supporting infrastructure occur concurrently with the planning for such a quantum step change in residential density, to provide assurance for Council, as well as eligibility for appropriate funding from State government Housing and Productivity Contributions.

Additionally, a local infrastructure contributions plan has not been prepared in time for concurrent exhibition with the TOD plans. A draft plan was prepared and circulated to Council for comment mid-way through the public exhibition period, with insufficient time (5 days) for Council to make meaningful comments. It is important that DPHI not proceed to finalisation of the TOD planning framework until such time as the local infrastructure has been prepared and exhibited in consultation with Council.

There are a number of other aspects of the Homebush TOD proposal that are ill conceived, such as proposed buildings located in floodways and flood storage areas, as well as in the existing loading dock areas of the Bakehouse Quarter where there is limited scope to relocate this important operational infrastructure. The TOD plans also propose a small new park at the current location of one of the two schools (OLA primary school) within the precinct, which is a lose-lose outcome for both the existing and future local community, presenting a scenario where provision of one element of social infrastructure is at the expense of another.

It is also critical that the proposed planning controls align with the principles and requirements of the State government's Apartment Design Guideline (ADG). There are several examples where this is not the case. The built form massing is poorly conceived with little regard to the landscape and features of the precinct on the ground. In North Strathfield, this will result in significant overshadowing and canyon-like streets due to the east-west orientation of the majority of streets. Basic controls such as maximum floorplate controls for buildings over 8 storeys, which are commonplace in modern LEPs to ensure quality built form outcomes, are also not included.

The following principles and key actions are deemed necessary to achieve this outcome:

- *Improve urban design outcomes by delivering density done well.*
Key Action: DPHI commit to a workshop with COX Architecture, Strathfield Council and the City of Canada Bay to revise the master plan.
- *Enable the delivery of high-quality streets and public spaces.*
Key Action: Prepare a Public Domain Plan for public open space, publicly accessible through-site links and existing and proposed streets.
- *Ensure that the proposed increase in density is supported by local infrastructure.*
Key Action: Prepare an Infrastructure Strategy to guide the implementation of local infrastructure.
- *Ensure that the proposed increase in density is supported by State and regional infrastructure.*
Key Action: Update the Infrastructure Delivery and Implementation Plan to include regional and State related infrastructure items.
- *Understand traffic impacts on the local and regional road network.*
Key Action: Revise the Precinct Transport Statement by validating the vision through modelling.

- *Ensure development controls are relevant to the Homebush TOD and are able to be implemented.*

Key Action: Review and update the Precinct Design Guide in collaboration with Strathfield Council and the City of Canada Bay.

It is requested that the principles, key actions and recommendations outlined in this submission be addressed prior to the finalisation of the Homebush TOD.

Should you require further information in relation to this submission, please contact Paul Dewar, Manager Strategic Planning on 9911 6402 or paul.dewar@canadabay.nsw.gov.au

Yours sincerely,



John Clark
General Manager

Introduction

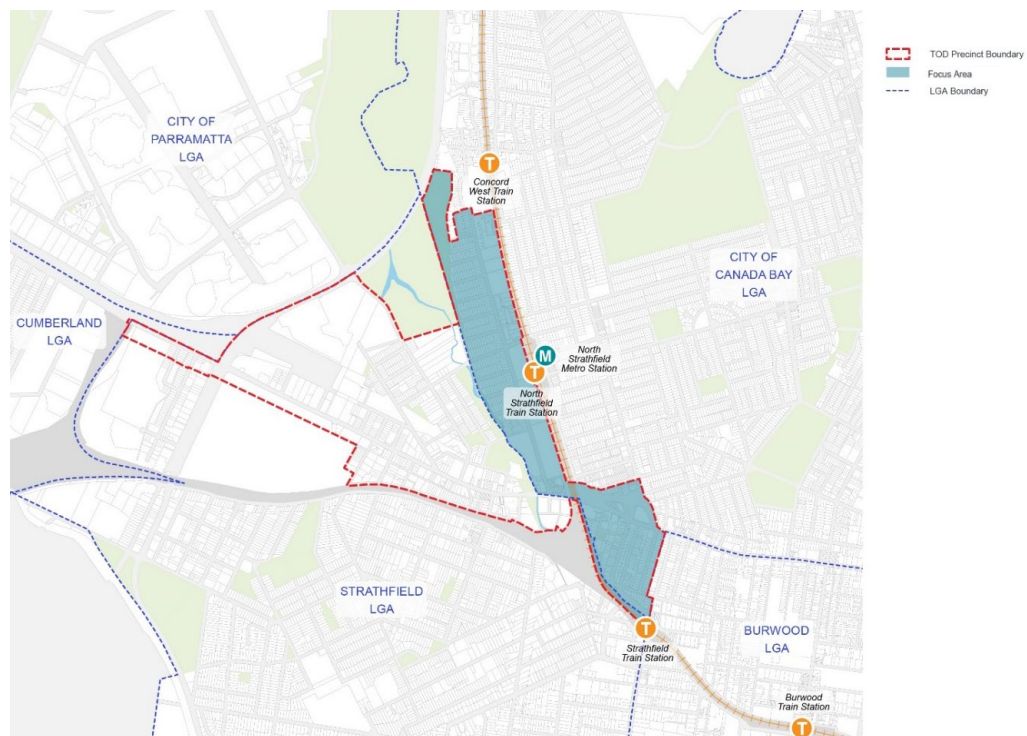
The submission is structured into the following themes:

1. Background and Strategic Planning context
2. Land Use and Urban Design
3. Infrastructure Delivery
4. Public Domain and Public Open Space
5. Traffic, Transport and Access
6. Flooding
7. Heritage
8. Community (Social) Infrastructure

1, Background and Strategic Planning context

Focus of Submission

This submission relates generally to land within the TOD Precinct boundary and specifically focuses on land within the City of Canada Bay Local Government Area (LGA) as shown below.



Land to which this submission relates

Overview

The City of Canada Bay Council is supportive of transport oriented development, however the proposal to locate over 25% of all dwellings (up to 16,100) identified under the 8 accelerated TODs in a single precinct (Homebush TOD) is excessive. The Homebush TOD precinct is characterised by limited and highly constrained east-west transport connections, flooding, and inadequate and aging infrastructure (drainage, road intersections and rail overbridges). Council completed comprehensive planning for the implementation of PRCUTS Stage 1 within the required timeframes, and the quantum of development now proposed for this TOD is well in excess of what can reasonably be accommodated in this relatively constrained location.

Based on current occupancy rates, 16,100 dwellings would result in a population of approximately 40,000 people, with approximately 26,000 of these residents located within the City of Canada Bay. There has been no consideration of, let alone commitment to, any additional public school, health, or any other regional infrastructure. 26,000 new residents is equivalent to the population of a mid-sized regional city such as Taree, which has 7 public schools (5 x primary and 2 x high schools), at least 6 non-government schools, 3 post-secondary institutions, and a large hospital. It is imperative that planning for and a commitment to this essential supporting infrastructure occur concurrently with planning for such a significant step change in density.

Parramatta Road Corridor Urban Transformation Strategy

The Homebush TOD Precinct is located within the boundaries of the 'Homebush Precinct' outlined in the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS).

PRCUTS is provided with statutory weight in accordance with Local Planning Direction 1.5 that requires consistency with PRCUTS and the associated *Parramatta Road Corridor Planning and Design Guidelines*. The Homebush TOD proposes a variety of departures to PRCUTS in relation to land use zoning, densities, building heights and a range of other requirements outlined in the Planning and Design Guidelines.

A proposal may be inconsistent with the terms of the Local Planning Direction if the proposal is justified by a study that clearly demonstrates better outcomes are delivered than identified in PRCUTS. Where Council or proponent-initiated planning proposals have been prepared that seek departures to PRCUTS, the Department of Planning, Housing and Infrastructure has consistently required a study to be prepared that specifically demonstrates better outcomes will be delivered, commonly referred to as a 'Better Outcomes Study'.

The Homebush TOD is inconsistent with PRCUTS, and the EIE and supporting studies do not satisfy the requirement for a Better Outcomes Study. There are a range of instances where the Homebush TOD does not demonstrate a better outcome than PRCUTS. The recommendations provided in this submission seek to ensure that the Homebush TOD delivers improved planning outcomes.

Local Planning Study

In July 2020, Council commenced engagement with the community to inform the preparation of draft Local Character Statements for land within the immediate vicinity of the North Strathfield Metro station. Following this engagement process, community feedback and technical advice were combined to produce a draft Local Planning Study.

The draft Local Planning Study was exhibited for community feedback in March 2022 and was further refined, before being endorsed by Council in May 2023. Council resolved to prepare a planning proposal and draft Development Control Plan for the North Strathfield Precinct, however this work was not progressed due to the Transport Oriented Development reforms initiated by DPHI.

The Local Planning Study for North Strathfield recommended significantly lower densities and building heights to those outlined in the EIE with buildings ranging in height from four (4) to five (5) storeys for land on the western side of George Street and up to eight (8) storeys within the Bakehouse Quarter and on the street block to the immediate west of North Strathfield train station.

Recommendation

- Review the quantum of residential dwellings/population proposed for the Homebush TOD in response to the issues raised in this submission.
- State government commitment to provision of essential regional infrastructure including, but not limited to, public schools and health (hospital) infrastructure, and include these items in the Homebush TOD documentation.
- Apportionment of the \$520M funding for the 8 accelerated TOD precincts based on number of dwellings/new population within each LGA.

2. Land use and Urban Design

Non-residential land uses

It is vital that the significant population proposed for the Homebush TOD precinct has access to convenience goods and services.

It is unclear how the quantum of non-residential uses has been determined and whether the amount of land zoned for retail and lifestyle/destination uses will be adequate to service the significant increase in population forecast in the Homebush TOD precinct.

An economic study should be prepared to assess the quantum of non-residential land uses that are needed to support the proposed population. Such an analysis should consider supermarket floor space, childcare, gyms and food and beverage offerings.

Urban Design

The masterplan prepared by COX Architecture will create an extremely dense precinct with monolithic street walls that overshadow streets and neighbouring buildings, creating an unpleasant environment for the future community. Some built form is located on flood-prone land, and there is no land set aside for schools.

These factors suggest that the proposed density is too high and it is recommended that the density be revised, based on:

- A detailed assessment of residential amenity and the amenity of streets,
- Adequate supply of non-residential uses and educational facilities, and
- Avoiding locating new buildings within floodways and high hazard flood areas.

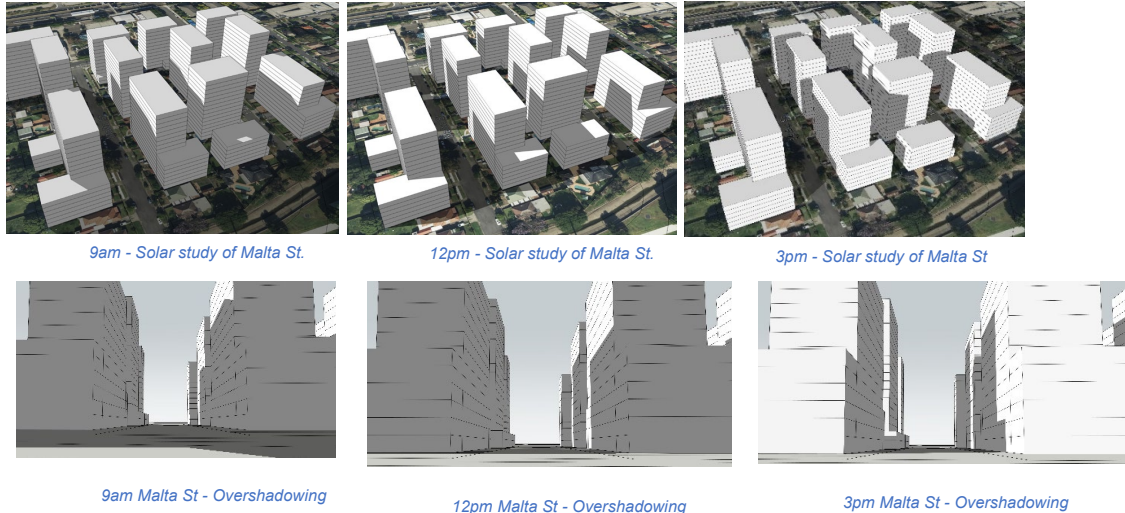


Perspective of proposed built form

North Strathfield

The masterplan's height strategy concentrates height in the middle of the blocks to minimise the impact of tall buildings on George Street and to create a consistent lower height street wall along Powells Creek. However, this approach does not consider that the majority of streets in North Strathfield are oriented east-west, which will result in overshadowed and windy canyon-like local streets. Whilst the solar access diagrams show most apartments receiving an

appropriate amount of sunlight, they do not fully consider the impact on neighbouring buildings, as illustrated below.



An alternative strategy is recommended, where the overall density for the precinct is reduced, and height is concentrated in areas of high amenity, including:

- along the expanded public open spaces adjacent to Powells Creek;
- along George St, as this will be the main access spine for vehicular, active and public transport; and
- around North Strathfield train/metro station, and between Pomeroy Street and the Bakehouse Quarter.

This strategy also includes reduced heights:

- on east-west streets, especially on the northern side of the street; and
- to the north of the Precinct near Concord West Station which is an area with limited access that is furthest away from North Strathfield Metro.

To demonstrate how the alternative height strategy may improve urban design outcomes and amenity for future occupants and streets, two schemes were prepared (see Appendix C). These schemes demonstrate that an improved outcome can be realised where lower street walls are provided on east-west streets and taller buildings are sited on part of a site.

Two 12 storey buildings north of Allen Street (sites 3D and 2C) are accessed off Elliott Street, which is a 10m wide lane. This 'street' may not be wide enough to accommodate the height of the built form proposed, nor the number of traffic movements that would be generated. It is recommended that further investigations be undertaken to ensure that Elliott Street will be able to support the density and traffic movements proposed.

Bakehouse Quarter

The Bakehouse Quarter is a unique area with considerable potential, however the site also has significant constraints. These constraints include the existing heritage fabric, extensive ground coverage, a minimal existing street network that is not interconnected with surrounding streets and the visual and access barriers created by the rail corridor, Parramatta Road and the M4 motorway. The Site is also too far away from North Strathfield Station or Strathfield Station to benefit from passing foot traffic.

The proposed location for residential towers above the heritage building in the Bakehouse Quarter creates towers without street addresses and places many residents against the railway line.

An 8-storey building is also shown on the location of the existing loading dock. This part of the site is likely to need to continue to function as a loading dock, due to site access constraints, and due to the difficulty of creating an internal loading dock within the heritage fabric of the site. The proposed building, including new residential lobbies, will interfere with the loading functions which will be crucial to the success of the Bakehouse Quarter as a focus for retail and commercial uses.

The masterplan proposes 24 and 30 storey towers at the south end of the Bakehouse Quarter, north of Parramatta Road. These towers will likely create unacceptable overshadowing of the existing and future residential towers on Nipper St and Colombia Lane and should be tested.

The proposed 2-storey podiums of the 24 and 30 storey buildings adjacent to Parramatta Road should also be tested to ensure they will not create residences that are adjacent to the elevated motorway. In this regards, the *Precinct Design Guide* should ensure apartment buildings are not able to be built beneath or immediately adjacent to elevated motorways.

There is a risk that the planned location for new apartment buildings will create poor outcomes for future residents and compromise the amenity, heritage and flexibility of the area to become a vibrant local hub. The TOD Precinct is an excellent opportunity to set appropriate planning controls that will resolve these challenges and ensure a successful heart for the future community.

It is recommended that this site-specific planning be undertaken to support the proposed changes to the planning controls for the 'Bakehouse Quarter' before the planning controls for the Homebush TOD are finalised.

Street wall heights

The creation of strong street walls through consistent building heights and street setbacks is supported. However, the height of the street wall in parts of North Strathfield is proposed to be 8 to 15 storeys high, which is not a pedestrian scale, and will overwhelm and overshadow local streets, creating windy spaces and a canyon-like feel. On George Street this is exacerbated by a narrow street setback of 3m.

The street wall height should be reduced so that it is experienced as 2-4 storeys, with towers set back above the podium. This will reduce the perception of height, minimise overshadowing

of the public domain, encourage moments of daylight to penetrate to streets, and break up the built form to 'confuse' wind, reducing its velocity. The floor space which is lost by reducing the street wall can be redistributed as additional height on slimmer towers. This is a similar approach taken by the City of Vancouver over the last 30 years, in districts such as Coal Harbour, West End and Yaletown, where slender point towers have been encouraged at the corners of development and 2-4 storey townhouses form street walls that activate streets and allow light to penetrate.

A section of Hamilton Street has been prepared to illustrate the extremely poor outcomes that will be delivered should the setbacks and building heights recommended by the EIE, Masterplan and Precinct Design Guide be implemented as proposed. These poor outcomes are repeated throughout the Precinct and demonstrate the importance of revising the proposed massing and envelopes and subsequent development standards and development controls to include podiums and revised street wall height.



Street section – Hamilton Street, North Strathfield

The Masterplan should be revised and the *Precinct Design Guide* should be updated to include specific controls relating to street wall heights, street setbacks and upper level setbacks that are specific to each street and that deliver high amenity to the public domain and residences at ground level.

Tower forms

Where possible, the masterplan orients taller built form (i.e. built form that is over 8 storeys) in a north/south direction to minimise the impact of overshadowing on neighbouring properties. This approach is supported. However, taller buildings are often shown as slab towers, with lengths of over 40m. These towers can appear bulky in the skyline, create canyon like streets and exacerbate overshadowing impacts. The maximum floorplate should be consistent with PRCUTS to encourage point towers instead of slab towers, to provide breaks between buildings and maximise solar penetration to the public domain and communal areas.

Built form over 8 storeys should be limited to a 750m² GFA floorplate and expressed as a development standard, similar to Clause 7.5(2) of the Canada Bay LEP. The *Precinct Design Guide* should indicate appropriate locations of point towers, concentrated at alternative/ offset corners of blocks and limit the maximum length of towers.

Setbacks

The *Precinct Design Guide* illustrates the proposed building setbacks adjacent to the new road along Powells Creek as 6m. However, the detailed masterplan which identifies the possible yield shows built form with no set back from the new road. Setbacks should be based on the intended character and the impact on the public domain. A 0m setback is appropriate for areas that provides activation to urban areas, whereas 6m creates a more suburban landscaped setback and a wider more open feel to streets. In this case, a 6m should be required.

It is recommended that the 6m setback to the new road adjacent to Powells Creek be reflected in the masterplan.

Street address

The *Urban Design Report* shows instances of proposed buildings that will have no street address. These include the 6 storey building adjacent to North Strathfield Train Station, and five 8 to 12 storey buildings on site 1 in the Bakehouse Quarter. Buildings with no street address can create problems with wayfinding, emergency access, safety and parking, and should be eliminated at a masterplan level. The masterplan should be amended so that all buildings have a recognisable street address.

Floor Space Ratio testing

Floor Space Ratio (FSR) testing was undertaken of seven (7) blocks within the Precinct (see Appendix B). Most of the sites tested achieved the Gross Floor Area (GFA) identified in the *Urban Design Report*, with some exceptions where departures to building setbacks and to the Apartment Design Guide (ADG) would be required to achieve the maximum FSR. It is recommended that the proposed FSRs be reviewed to ensure that minimum setbacks and adherence to the ADG is achieved.

Isolated sites

The requirement that sites be amalgamated as per the Key Sites Map does not extend across the entire Precinct. In addition to the delivery of roads and open space, Key Site provisions and minimum lot size requirements also require the amalgamation of land. The exclusion of a majority of sites within the Precinct from the Key Sites Map and an amalgamation requirement will result in ad-hoc development occurring as random land parcels are acquired and developed. This may result in isolated sites that lack the potential to be developed to a higher density in the future.

In this regard, minimum site area requirements provide benefits in relation to the realisation of intended urban design outcomes and avoidance of isolated lots, thereby enabling a coordinated development outcome.

It is requested that the Key Sites Map be updated to include amalgamation requirements for all Lots, or the *Precinct Design Guide* be amended to include amalgamation requirements for sites not identified on the Key Sites Map.

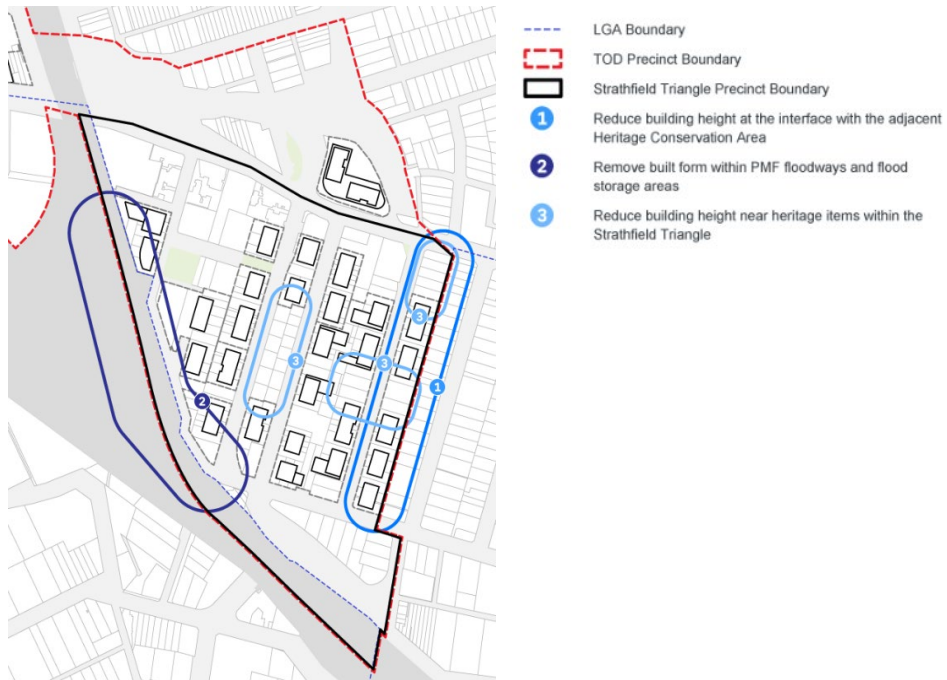
Recommendation

- Prepare an economics analysis to inform the quantum of non-residential floor space that is required to service the proposed population.
- Review the proposed density and built form to:
 - Identify and zone land for new primary and secondary schools
 - Remove buildings located in floodways or flood storage areas
 - Revise the proposed height strategy to avoid creating streets that are unpleasant, overshadowed, overwhelming in scale, and windy.
- The alternative height strategy should concentrate building height in areas of high amenity and involve:
 - increasing height along the expanded public open spaces adjacent to Powells Creek,
 - increasing height along George Street, as this will be the main access spine for vehicular, active and public transport,
 - increasing height around North Strathfield train/metro station and between Pomeroy Street and the Bakehouse Quarter.
 - decreasing height on east-west streets, especially on the northern side of the street.
 - decreasing heights to the north of the Precinct near Concord West Station which is an area with limited access that is furthest away from North Strathfield Metro.
 - reviewing the proposed heights for buildings accessed from Elliot Street, North Strathfield.
- Undertake the necessary site-specific planning and supporting studies to support the proposed changes to the planning framework for the 'Bakehouse Quarter' before the planning controls for the Homebush TOD are finalised.

- Introduce a maximum tower floorplate standard for buildings over eight (8) storeys of 750m² GFA.
- Revise the master plan and *Precinct Design Guide* to:
 - reduce street wall heights to a maximum of four (4) storeys on east-west streets.
 - remove buildings that do not have a recognisable street address;
 - illustrate a 6.0m setback to the new road adjacent to Powells Creek;
 - review the proposed Floor Space Ratios to ensure minimum setbacks and adherence to the Apartment Design Guide; and
 - ensure that residential floorspace is sited above the level of adjacent elevated motorways.
- Include all sites on the Key Sites Map to require amalgamation or revise the *Precinct Design Guide* to include required amalgamation requirements for sites not identified on the Key Sites Map.
- Review and update the *Precinct Design Guide* in collaboration with Strathfield Council and the City of Canada Bay.



Summary of Urban Design recommendations



Summary of Urban Design recommendations (continued)

3. Infrastructure delivery

Housing and Productivity Contributions

The *Infrastructure Delivery and Implementation Plan* prepared on behalf of DPHI for the Homebush TOD does not identify any State or regional infrastructure. The absence of planning for schools, hospitals, regional open space, regional active transport connections, road and transport upgrades is of significant concern.

It is essential that demand for State and regional infrastructure be assessed and works identified to enable necessary infrastructure to be included in Infrastructure Opportunity Plans. Unless State and regional infrastructure is specifically referenced in an endorsed State Government Plan or Strategy, such as the Homebush TOD, such works will not be eligible to be funded from Housing and Productivity Contributions.

Local Infrastructure Contribution Plan

At the time of writing, the EIE for the Homebush TOD has been exhibited in the absence of a draft Local Infrastructure Contribution Plan. It is imperative that a draft Local Infrastructure Contribution Plan be finalised prior to the rezoning of land so that funds will be available to provide the necessary infrastructure for the growing population.

Key Sites

The City of Canada Bay is supportive of the proposed mechanism outlined in the EIE to deliver new open space and roads. The use of 'Key Site' provisions in the City of Canada Bay and other Local Government Areas have proven successful to ensure that public infrastructure is provided upon the redevelopment of land.

The precinct known as the Strathfield Triangle has been identified as a location for additional density for a number of years and the *Canada Bay Local Environmental Plan 2013* (LEP) reserves land for a range of public purposes within the precinct. The EIE for the Homebush TOD seeks to increase the permitted density in the Strathfield Triangle beyond that contained within the current LEP and introduce Key Site provisions to deliver new public open space. This new planning framework creates an opportunity to revise the current approach to deliver local infrastructure in the precinct.

It is requested that the following infrastructure in the Strathfield Triangle be delivered through the proposed Key Site provision:

- Proposed 3.0m road widening for land to the east of Cooper Street (Item 1).
- Proposed pedestrian/cycle link from Hilts Road to Leicester Avenue (Item 3).
- Proposed 9.5m wide laneway at the rear of properties fronting Leicester Avenue (Item 4).
- Proposed 'Cooper Street' realignment (Item 5).
- Proposed 3.0m road widening for land to the west of Cooper Street (Item 6).



Recommended Key Sites and Infrastructure items in the Strathfield Triangle

These items are necessary to enable redevelopment of the precinct to occur, have a direct nexus with development sites and may be provided on part of a site whilst continuing to facilitate significant uplift on the balance of the land.

In addition to the items in the Strathfield Triangle, the proposed multipurpose community facility in North Strathfield (see discussion under the heading Community facility below), the 6m green edge setback to Parramatta Road and required publicly accessible through-site links should also be identified in the 'Key Site' provision. Importantly, the inclusion of these items in the 'Key Site' provisions does not change the objectives or intended outcomes of the EIE.

Land reserved for acquisition

The EIE and associated Annexure of proposed statutory mapping amendments do not include any reference to land acquisition or a Land Reservation Acquisition Map. Confirmation is sought from the Department that there is no intention to reserve land for a public purpose to deliver local infrastructure. The City of Canada Bay is unlikely to consent to the reservation of land for public purposes given the significant financial implications for Council of acquiring land. The reservation of land is particularly problematic where the cost of land exceeds the income received from development contributions. The alternative "Key Site' provision that enables land and/or infrastructure to be delivered on land where an uplift in density occurs is supported for the Homebush TOD Precinct.

Delivery of infrastructure

The draft *Precinct Design Guide* requires sites to be amalgamated as per the Key Sites Map and to dedicate specified open space and roads to public ownership in order to access the maximum Building Height and Floor Space Ratio. However, there is minimal guidance in relation to the mechanism or process by which land will be dedicated. This will likely result in councils having to negotiate with developers on a case-by-case basis, which creates a high degree of uncertainty, consuming significant resources and time.

Other land, including pedestrian and cycle links are required to become public land or be publicly accessible via an easement. However, the draft *Precinct Design Guide* primarily limits active transport links to the existing street network. There is no guidance in relation to where new through-site links are to be provided and no information on how dedication or easements are to be facilitated.

It is requested that an Infrastructure Strategy be prepared and included in the *Precinct Design Guide*. An Infrastructure Strategy would identify the infrastructure that is required to be provided by developers, describe the planning nexus between the infrastructure and future development, communicate the mechanism to deliver the infrastructure, and explain that the floorspace-transfer mechanism does not reduce a site's overall development capacity.

An example of an Infrastructure Strategy prepared to support precinct planning is the [PRCUTS Stage 1 Infrastructure Strategy](#).

Recommendation

- Review and update the *Infrastructure Delivery and Implementation Plan* so that Housing and Productivity Contributions can fund works within the Homebush TOD.

The Plan must identify State and Regional infrastructure items, including but not limited to primary schools, secondary schools, hospitals, regional open space, regional active transport connections, State roads and public transport improvements.

- A draft Local Infrastructure Contribution Plan applicable to the City of Canada Bay be prepared and finalised prior to the rezoning of land within the Homebush TOD Precinct.
- Identify the following infrastructure items in the proposed 'Key Site' provision:
 - Proposed 'Cooper Street' realignment.
 - Proposed 3.0m road widening for land to the east and west of Cooper Street.
 - Proposed 9.5m wide laneway at the rear of properties fronting Leicester Avenue.
 - Proposed pedestrian/cycle link from Hilts Road to Leicester Avenue.
 - Proposed multipurpose community facility in North Strathfield.
 - Proposed 6.0m wide 'green edge' setback to Parramatta Road.
 - Proposed land identified to deliver 'through-site links' throughout the Homebush TOD Precinct.

- Proposed multi-purpose community facility and Community arts and cultural space.
- DPHI confirm that there is no intention to reserve land for a public purpose in the Homebush TOD Precinct.
- Prepare an Infrastructure Strategy or update the *Precinct Design Guide* to explain how infrastructure will be delivered through 'Key Site' provisions.

4. Public Domain and Public Open Space

Public Domain Plan

The *Homebush Precinct Public Domain Strategy* report prepared by Tyrrell Studio recommends new open space and upgrades to existing areas of public open space and the draft *Precinct Design Guide* requires proponents to prepare a detailed public domain plan for future development that proposes new buildings and/or new public domain elements.

Other than outlining the general elements that should be included in a public domain plan, the *Precinct Design Guide* and the supporting *Public Domain Strategy* provide limited guidance for applicants and limited certainty for Council, who will inherit the land and works in public spaces.

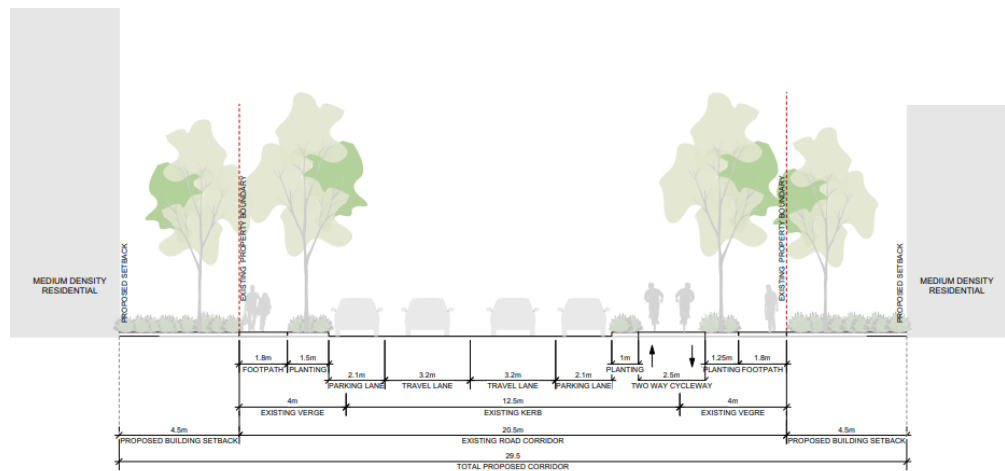
It is vital that applicants, Council and the relevant consent authority understand and agree on what is required to be delivered on land that is to be dedicated or embellished. Achieving quality public spaces and connections will only be possible where a Public Domain Plan is prepared upfront to provide an overarching vision and guidance for works in public spaces.

As the planning authority responsible for the Homebush TOD, it is incumbent on DPPI to prepare a Public Domain Plan in consultation with Council. Such a Plan must include all open space within the Precinct boundary, publicly accessible through-site links and existing and proposed streets.

Examples of Public Domain Plans prepared to support precinct planning are the [Parramatta Road Public Domain Plan](#) and the [Rhodes East Public Domain Plan](#).

Streets as public places

It is also important that appropriate planning controls be imposed to achieve desired outcomes in public streets. For example, a Public Domain Plan will enable a decision to be made as to whether streets need to be widened to create room for all road users, including vehicular traffic, separated cycle paths, street trees and to futureproof the area for buses. A decision can then be made to determine whether land dedication is required and whether the setback of buildings needs to be adjusted.



TYPICAL SECTION - GEORGE & KING STREET SPINE

Open Space adjacent to North Strathfield train/metro station

Whilst the existing pedestrian bridge across North Strathfield Station is located at the southern end of the platform, the *Sydney Metro West Environmental Impact Statement* shows the main circulation to North Strathfield metro station at the centre of the site. The new Park on Hamilton Street east is proposed to align with the southern side of the station and assumes that desire lines to the train and metro will remain in their current location to the south.

However, if one or both schools are relocated, the new Park should be planned for the centre of the site, at the end of Malta Avenue. Despite the location of Hamilton Street bridge, any plaza located further north would create more direct access for pedestrians and cyclists approaching the site from the north, west and south. The Hamilton Street shared zone would then move to Malta Avenue.

It is recommended that the proposed open space and associated main access to North Strathfield Station be located further north to better service the entrances of the metro and train station.

WA McInnes Reserve

Increasing the size of WA McInnes Reserve is supported, as it is the only non-linear public open space north of Pomeroy Street in North Strathfield and will help to relieve the street wall along George Street. It would be an ideal location for a children's playground, as its 400m catchment would service most of the residences north of Pomeroy Street.

However, the proposed park will be relatively small, measuring approximately 1,200m² or 30m x 40m. This size limits the types of uses that can be planned for this park. A 12 storey tower is also proposed directly to the north of the park, which would overshadow the park and reduce the amenity and usability, particularly as a children's playground.

It is recommended that WA McInnes Reserve be extended from Brussels Street to Mena Street to ensure the park is large enough for adequate sunlight access, frequency of use and ease of maintenance, as well as suitable programming (see also Appendix C).



Recommended extension of WA McInnes Reserve

Public Open Space north of Strathfield Station

Solar access to new public open space north of Strathfield train station is unsuitable at sites Manson Road Open Space (P13) - 40% and Swan Avenue Open Space (P14) - 20%. An alternate design solution must be achieved to provide high quality, useable public open space to the new residents.

It is recommended that the open space identified as P13 and P14 be consolidated into a larger public open space to achieve improved amenity, parks with greater functionality and operational efficiencies for Council.

Canopy Cover

The City of Canada Bay is strongly supportive of increasing tree canopy and has adopted an urban canopy target of 25%.

The objectives, provisions and the ambitious canopy targets for streets (Table 1), open spaces (Table 4), and attached dwellings and apartments (Table 6) as outlined in the Precinct Design Guide are supported. However, given the density of development proposed, a 30% canopy target for multi-dwelling housing is likely to be unachievable.

It is recommended that a tree canopy assessment be undertaken to determine if this target is achievable based on the draft Masterplan. An example of an urban canopy assessment that

was prepared to inform precinct planning and development controls is the [PRCUTS Stage 1 Urban Canopy Assessment Report](#).

Recommendation

- DPHI to prepare a Public Domain Plan in consultation with Council for open space, publicly accessible through-site links and existing and proposed streets.
- Where the Public Domain Plan identifies a requirement for streets to be widened to accommodate vehicular traffic, active transport, parking and plantings, the “Key Site” provision and Precinct Design Guide be revised to achieve this outcome.
- The proposed open space to the west of North Strathfield train and metro station be relocated to the centre of the street block to provide improved alignment with the station entrance and active transport desire lines.
- Extend WA McInnes Reserve from Brussels Street to Mena Street to ensure the park receives adequate sunlight access and is large enough for suitable programming, frequency of use and ease of maintenance.
- Undertake a tree canopy assessment to determine that the tree coverage targets are achievable

5. Traffic, transport and Access

Traffic

The Homebush TOD is estimated to result in nearly 16,100 additional dwellings within the precinct. The *Precinct Transport Statement* (PTS) prepared on behalf of DPHI has limited its transport needs assessment to approximately 46% of this development (expected by 2036) meaning that the traffic capacity needs findings of the *Parramatta Road Traffic and Transport Action Plan* (PRTTAP) are comparable to those of 46% of the full buildout of the TOD. No meaningful metrics-based consideration has been given to the 'master planning' of the transport needs of the remaining 54% of the TOD precinct.

At a little more than 46% of the TOD precinct's development level, the PRTTAP identified a severely congested local traffic network even after assumptions were made that a high degree of through traffic would be re-routed outside of the corridor. More local road links and greater management of the interfaces between local streets and Parramatta Road (e.g. turn bans, clearway length extensions, more intersections etc.) would be expected after 2036 and should be identified in a Transport Master Plan for a full development scenario.

It is important that the Precinct Transport Statement acknowledge that the PRTTAP accounted for Sydney Metro West. This means that when TfNSW ran its regional strategic model for PRTTAP, it included the proposed Metro West project influence on modal share and hence the resulting traffic demands to/from the corridor.

Furthermore, whilst the vision and validate approach is recognised as the prevailing assessment approach, this does not mean that the potential risks associated with a selected vision should not be contemplated at all in the Master Plan; that is, not be validated.

The proposal is to double local travel demand to/from the Homebush TOD precinct compared to what was assessed in the PTS and at the same time to re-allocate road space on Parramatta Road to public transport. These proposals in combination suggest a substantial modal shift from current usage levels would be essential.

The quantity of modal shift required to walking, cycling and public transport (compared to current modal shares) should at least be validated in the PTS to understand if the scale of change is feasible, or if not achievable, how it may be counter-productive to attracting the scale of housing development targeted in such an area as Homebush. Further modelling / analysis is needed to validate the pragmatism of the vision at full build out and a better understanding of public transport capacity is required.

Please refer to the review of the Homebush TODS proposal prepared by Bitzios Consulting on behalf of the City of Canada Bay for further information (provided as Appendix D).

New Street adjacent to Powells Creek

Additional information is needed on the configuration of the new street along Powells Creek, in particular where it meets Pomeroy Street. It has the potential to result in a very high volume of traffic for drivers wishing to get in/out of the area to the north, bypassing congestion which will no doubt occur at the intersection of George Street and Pomeroy Street (notwithstanding planned upgrades). Note that there are significant utilities either side of Pomeroy Street

crossing Powells Creek which may impact on the feasibility of a new street. There is also a risk that the proposed new street linking Underwood Road to Allen Street will create a new 'rat run' for drivers to bypass delays on State and Regional Roads. Further analysis is required on the implications of this new street.

Consistency with Infrastructure Delivery and Implementation Plan

There are significant inconsistencies between the infrastructure identified in the Precinct Transport Statement and those identified in the Infrastructure Delivery and Implementation Plan. For example, the Statement includes a 'raised threshold at intersection' along George Street which the Plan does not appear to include.

Active transport

A key opportunity identified in the *Precinct Transport Statement*, prepared by Arup, is to 'provide a connected active transport network of safe walking and cycling routes linked to key crossings of major barriers, and connections to key land uses, open space and transport nodes.' To achieve this objective, the *Precinct Transport Statement* identifies aspirational walking and cycling network interventions. The interventions prioritise walking and cycling links over the main northern railway line and over Parramatta Road via bridges.

Council is supportive of improving active transport connections over key barriers, including over the Pomeroy Street bridge and over Parramatta Road. These links require significant infrastructure with clear and viable funding mechanisms. Unfortunately, insufficient investigation has been undertaken to enable the interventions identified in the *Precinct Transport Statement* to be realised.

For example, the Pomeroy Street link will likely require additional land to be dedicated as road reserve, including additional space for elements such as a separated cycleway. A more direct link following the rail corridor between Cooper Street and Queen Street would likely deliver better connectivity and is consistent with the PRCUTS Planning and Design Guidelines.

Further, Council has been attempting to work with Sydney Metro to deliver a quality link along Queen Street and has concerns that current plans will not deliver the level of through connectivity required. The Department is encouraged to work further with Sydney Metro to assist in ensuring alignment between plans/outcomes.

Council recommends there be a cycling link along the eastern side of Powells Creek between Warsaw Street and Parramatta Road, in addition to the link proposed along George Street, and with a link across Powells Creek on the north side of Pomeroy Street.

Given the significant emphasis of the *Precinct Transport Statement* in relation to encouraging a modal shift to public and active transport, it is recommended that a Public Domain Plan be prepared to move from aspirational lines on a map to a plan that is realistic and able to be implemented. Such a Public Domain Plan would provide further analysis as to how the recommended interventions could occur, how they will be funded and whether they can be accommodated within the existing road reserves. This analysis should involve the preparation

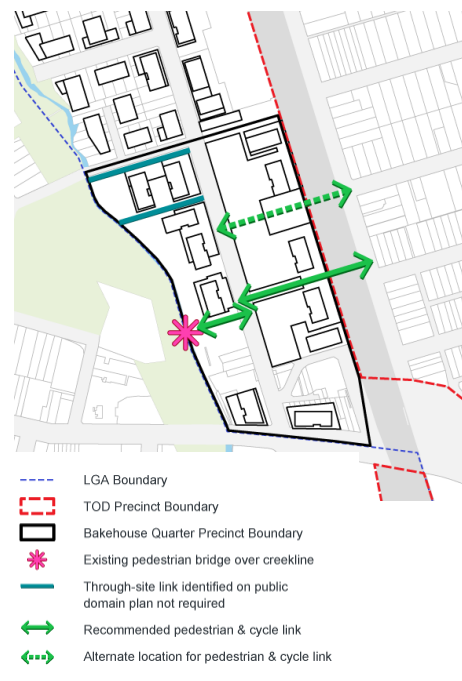
of concept designs, consideration of impact on competing road users, involve engagement with relevant stakeholders, provide an indication of estimated cost and identify agencies responsibility for implementation.

It is important that this work not be deferred to a later date as the successful implementation of the masterplan hinges on a significant shift to active transport and the implementation of these priority connections.

Bakehouse Quarter

For the Bakehouse Quarter to service the existing and future surrounding community, it should be well designed and better connected. The railway line, Powell's Creek, Parramatta Rd and Great Western Highway infrastructure create hard constraints to the Bakehouse Quarter's ability to facilitate vehicular movements and parking, including loading.

Pedestrian and bicycle access both through the precinct and across the railway line should be prioritised in this area to alleviate traffic congestion and parking difficulties as much as possible. This is supported by the Responses 2, 3 and 5 of the *Precinct Transport Statement*. The pedestrian and cycle links shown in in the image below should be prioritised.



Bakehouse Quarter recommended pedestrian and cycle links

Strathfield Triangle

The *Homebush Precinct Public Domain Strategy* report identified new pedestrian links through the Strathfield Triangle (L4). Whilst greater pedestrian permeability is supported, the careful location and quality of through-site links will be more important than their frequency. Leicester Avenue is difficult to cross, so it is important that through-site links are aligned to pedestrian crossing points and link with pedestrian desire lines. It is recommended that two through-site links are retained and two removed.



Suggested through-site links

153-165 Parramatta Road, North Strathfield

This island site, encircled by busy State roads on all sides requires further traffic analysis before an increase in density is permitted in this location. This is necessary due to significant egress constraints. In August 2023, Council commissioned a traffic assessment for uplift of 144 dwellings on the site with a GFA of 10,131sqm.

The traffic assessment found that there would be significant queueing of vehicles attempting to exit the site onto Concord Road (given vehicular access from Parramatta Road is not supported by the Transport and Infrastructure SEPP). In the AM there would be a minimum of 3 vehicles queueing at any one time waiting to exit the site, requiring an access driveway within the site of greater than 15m. This was considered unacceptable by the traffic consultants and by Council officers.

The uplift tested by Council is significantly less than the 16,483sqm residential GFA proposed in the EIE. The additional uplift will further exacerbate the queueing length and time for vehicles to exit the site. The site should therefore be deferred from the TOD Proposal and further traffic investigations undertaken to ensure that the site can be redeveloped to the density proposed.

Car Parking

The City of Canada Bay is supportive of the application of car parking rates consistent with the PRCUTS. The PRCUTS *Planning and Design Guidelines* and the *Homebush TOD Precinct Transport Statement* apply the same car parking rates. However, Table 8 of the draft *Homebush Precinct Design Guide* changes these rates by referencing 'within 400m of a train station' and 'greater than 400m from a train station'. These references result in the proposed parking rates being applied differently to that recommended by PRCUTS and the *Precinct Transport Statement*.

Recommendation

- The full development vision and its associated transport actions included in the *Precinct Transport Statement* should be modelled to validate that the shift in modal share away from private vehicle usage needed across all trip purposes and all trip destinations is foreseeable.

Such an analysis should consider trips and modal shares to, from, within and through the precinct and should benchmark the required modal shares against developed centres in similar contexts elsewhere.

- DPHI prepare a concept Public Domain Plan to inform the implementation of interventions recommended by the *Precinct Transport Statement* relating to:
 - the proposed new street along Powells Creek, particularly where it meets Pomeroy Street;
 - aspirational and prioritised walking and cycling links;
 - precinct environment interventions (quiet ways, footpath widening, shared zones, raised wombat crossings, signalised crossings, raised thresholds etc);
 - intersection upgrades and new road alignments;

- principles and concepts to inform the design of public open space; and
 - other public domain elements including embellishment of existing streets and publicly accessible through-site links.
- Remove through-site links in the Bakehouse Quarter and the Strathfield Triangle that are not required and identify through-site links that are required in the *Precinct Design Guide*, *Public Domain Plan* and Infrastructure Strategy.
- Update the draft *Precinct Transport Statement* and *Precinct Design Guide* so that all 'Tier 1' areas in the City of Canada Bay are subject to the same car parking rates as outlined in the *Parramatta Road Corridor Urban Transformation Strategy*.
- Defer the rezoning of 153-165 Parramatta Road, North Strathfield until further traffic investigations are undertaken to address significant egress constraints.
- Correct the inconsistencies between the Transport Statement and the Infrastructure Delivery and Implementation Plan.

6. Flooding

Flood division line

North Strathfield and the Strathfield Triangle are prone to flooding, due to both mainstream flooding from Powells Creek and from overland flows. The *Flood Impact and Risk Assessment* includes recommendations for the location of built form, to minimise risk to life and property, including that proposed buildings should be kept clear of floodways and flood storage areas and states:

Typically, development within floodway or flood storage areas would be likely to push water into other areas, redistributing the flood risk, unless the development is carefully designed to avoid these impacts.

However, the masterplan proposes buildings in North Strathfield and the Strathfield Triangle within floodways and flood storage areas.

The *Urban Design Report*, which includes a Flood Division Line (Figure 25) references the Flood Assessment as the source of the data. However, the Flood Assessment does not reference or map the Flood Division Line. It is therefore unclear how it has been determined and there is no nexus between the two studies, providing no confidence that the Flood Division Line has been drawn in the correct location.

The flood division line does not align with the PMF floodway and does not continue to the Bakehouse Quarter or the Strathfield Triangle. It appears that the Flood Division Line is loosely based on *1% AEP Existing Case Hydraulic Categories for Floodway and Flood Storage*. Given this appears to be the case, and that there is land in the Strathfield Triangle that is Floodway or Flood Storage, the Flood Division Line should extend through the Triangle. This is important to provide confidence that the Rezoning Proposal is consistent with *Local Planning Direction 4.1 Flooding*, which prohibits development in a floodway.

The masterplan should be amended to better consider flood hazards. Built form should be avoided within PMF floodways, flood storage areas and high hazard areas. Larger setbacks to built form may be required in North Strathfield and parts of the Strathfield Triangle.

Flood related development controls

Clause 5.21 of the Canada Bay LEP relates to flood planning and applies to a 'flood planning area'. A 'flood planning area' is subject to flood related development controls and is typically illustrated on a Flood Planning Area Map. It is important that the draft *Precinct Design Guide* include a Flood Planning Area Map to enable the consistent application of Clause 5.21 of the Canada Bay LEP.

In addition, Clause 5.22 of the Canada Bay LEP applies to land between the flood planning area and the probable maximum flood. In this regard, it is also important to identify the Probable Maximum Flood on all relevant maps.

The *Flood Impact and Risk Assessment* made the following recommendations for DCP controls, which should be reflected in the *Precinct Design Guide*:

The relevant Council policies provide guidance on appropriate floor levels, underground parking entrance levels, building components and structural soundness, flood affectation, evacuation access and ongoing risk management. In addition to these the following points should be considered:

- Consistent with the current design concept, final concepts should avoid areas of floodway and high hazard flow.
- Consistent with the current design concept, final concepts should provide for overland flow through the consolidated sites.
- Building and parking entrances should consider proximate flood behaviour and be located a preferable risk location. (sic)
- Ensure access is achievable, the following road locations have been identified as being potentially constrained for evacuation:
 - Cooper Street,
 - Parramatta Road (near Cooper Street, at Powells Creek crossing, at Underwood Road, at Bedford Road, at Telopea Avenue)
 - Allen Street,
 - Ismay Avenue, and
 - George Street.
- Flood awareness for the community to ensure that access constraints, short available warning times and storm durations are understood. Flood aware communities have been shown to be far more resilient than those with less awareness, reducing risks to life and damages from flooding.

Recommendation

- Revise the master plan to better consider flood hazards by avoiding buildings in PMF floodways, flood storage areas and high hazard areas.
- Extend the Flood Division Line through North Strathfield and the Strathfield Triangle.
- The development controls recommended by the *Flood Impact and Risk Assessment* be included in the *Precinct Design Guide*.
- Include maps that identify flood planning areas and the probable maximum flood.

7. Heritage

Heritage Interfaces

The *Urban Design Report* prepared by COS Architecture on behalf of DPHI includes an urban design principle to provide appropriate interfaces to heritage items. The draft *Precinct Design Guide* also includes requirements in relation to transition zones and sensitive interfaces and encourages 'the gradual stepping up of built form at the interface of existing low-rise development and proposed higher rise development' and to 'Encourage new development that is sensitive and complementary in scale to identified heritage'. Despite these principles and controls, the EIE will facilitate development that will not achieve this outcome.

The EIE proposes 21m maximum building heights along the eastern side of Swan Avenue. This results in 6 storey buildings sharing a boundary with single-storey buildings within the Mosely & Roberts Streets heritage conservation area. A more sensitive height and built form transition is needed to interface with existing residential areas, particularly with existing heritage items and heritage conservation areas to the east.

It is recommended that the proposed maximum height on the eastern side of Swan Avenue be more sensitive to the adjacent Heritage Conservation Area. Buildings with a height of two to four storeys are recommended and should be tested before proposed LEP height maps are finalised.

Similarly, the masterplan should take a more considered approach to the height of buildings in the vicinity of the heritage items on Manson Road. Buildings with a height of 6 to 12 storeys are proposed adjacent to and opposite single-storey heritage items on Mason Road, which will dwarf and overshadow these properties. This is exacerbated by the north-south orientation of the proposed buildings, which will present long edges to the heritage buildings.

To minimise the impact of built form on heritage items, a two to four storey street wall should be used, and taller buildings should be set back at upper storeys by at least 3m. Tower forms should be re-oriented, so they present a short edge to the street. Where possible, towers should be separated from heritage buildings.

Alternatively, given the degree to which the heritage-listed houses in Manson Road, Swan Avenue and Leicester Avenue will be compromised, demolition of isolated heritage items could be considered, with focus instead placed on ensuring a sympathetic setting for the heritage items that are proposed to be retained.

Bakehouse Quarter

The EIE proposes 27m, 30m and 44m towers on the eastern side of the Bakehouse Quarter, adjacent to the rail line. The GML heritage report recommends that future change for the Bakehouse Quarter should be guided by a comprehensive conservation policy and that a detailed assessment and historic building fabric analysis should be undertaken to determine tolerance for change, prior to any development.

Further, vehicular entries into the historic factory building from George Street should be considered as part of a heritage assessment.

For the reasons outlined under the heading 'Land Use and Urban Design', it is recommended that the Bakehouse Quarter be deferred from the Homebush TOD until site-specific planning is undertaken to support changes on the site.

Substation

The heritage-listed substation at 40A George Street, North Strathfield could be adaptively re-used and incorporated into a larger development, if/when it is no longer required as a substation, given its historical setting will be fundamentally altered.

Other heritage listings

The recommendation in the GML heritage report, that the heritage listing of Milling Place at 42P Swan Avenue (item I428) be reviewed, and that the house at 64 Concord Road, North Strathfield (item I108) be removed from the heritage schedule is supported.

Recommendation

- Buildings on the eastern side of Swan Avenue, adjacent to the Mosley and Roberts Streets heritage conservation area should be reduced to a maximum of 2 to 4 storeys.
- The height of buildings around heritage items be reduced by creating a 2 to 4 storey street wall, with taller buildings set back at least 3m at upper levels and oriented so they present short edges to the streets. Tall buildings should be separated from heritage buildings as much as possible.
- The Design Guide include a provision requiring a comprehensive a conservation policy and a detailed assessment and historic building fabric analysis be undertaken to determine tolerance for change prior to any development occurring in the Bakehouse Quarter.

8. Community (Social) infrastructure

General

The proposed 10,000 dwellings in Canada Bay (up to 26,000 people) is substantial and will lead to a significant increase in social need, if not planned in conjunction with changes to the planning framework.

The EIE and supporting technical studies do not include sufficient analysis in relation to the social impact and service needs.

Affordable Housing

The City of Canada Bay is supportive of future development in the Homebush TOD being required to provide affordable housing. It is expected that the amount of affordable housing will be determined based on the recommended densities and the outcome of feasibility testing.

Consistent with the requirements of the *Canada Bay Affordable Housing Policy* and the *Canada Bay Affordable Housing Contribution Scheme*, affordable housing in the City of Canada Bay is to be transferred in property title to Council and managed by a Community Housing Provider. Assurance is sought from the DPHI that the proposed LEP clause will not change this outcome.

Community facilities

The *Infrastructure Delivery and Implementation Plan* prepared for the Homebush TOD by Arcadis recommends the development of a new multipurpose community centre within the centre of the Homebush precinct near the Bakehouse Quarter. The Arcadis report states that this facility should be a 3,000sqm multipurpose district level library and community hub.

A multipurpose community facility in this location is needed to satisfy the demand generated by the proposed population and is consistent with needs identified within the *Canada Bay Social Infrastructure (Community) Strategy*.

Rather than relying on a Local Infrastructure Contribution Plan to provide this infrastructure, it is requested that the multipurpose facility be delivered through the proposed 'Key Site' provision. This approach will bring forward the delivery of this infrastructure and ensure that appropriate public benefits are provided to complement the proposed increase in density.

Precedent for this approach can be found in Clause 7.4 of the *Lane Cove Local Environmental Plan 2009* for the St Leonards South Area. The Lane Cove LEP requires a community facility to be provided prior to development accessing 'Incentive Height of Building' and 'Incentive Floor Space Ratio' standards on an identified site.

Relevant locations to provide the multipurpose facility include land that is experiencing a significant uplift in FSR and includes land to the immediate east of the North Strathfield Metro station (103m or up to 30 storeys) or the proposed new Mixed Use Zone on the corner of George Street and Pomeroy Street (62m or up to 18 storeys).

Estimated costs

There are a number of the estimates in the *Infrastructure Delivery and Implementation Plan* that appear to significantly undervalue the cost of works. For example, the walking and cycling link on Princess Avenue to Gipps Street via Patterson Street (A4) will require a separate cycleway with significant changes to kerb alignment and other existing infrastructure. There are a range of times that exceed the estimated cost that are included in the Infrastructure Delivery and Implementation Plan. In Council's view, it is important that these costs be reviewed and where relevant, updated, prior to being included in a draft local infrastructure plan.

School infrastructure

An additional 16,000 dwellings are proposed throughout the TOD precinct, of which approximately 10,000 are within the City of Canada Bay. The 2021 census for the Homebush SA2 covers most of the Homebush TOD Precinct and counted 2.6 people per household, meaning that the population of the Canada Bay part of the TOD Precinct could increase by approximately 26,000 residents.

The census identified that 11.8% of the population are between 4 and 19 years old, meaning potentially over 3,000 of the additional residents will be school aged children. Despite this no new schools have been proposed in the TOD Precinct, and the only two existing schools in the TOD Precinct, The McDonald College and Our Lady of Assumption Primary School, are identified as being replaced with mixed use development.

It is critical that school sites are identified as part of any planning process involving a quantum change in population density such as proposed by this TOD, as it is cost prohibitive to acquire sites for schools in established suburban areas after planning controls have been put in place. Additionally, the TOD plans identify an existing primary school site (Our Lady of the Assumption, relatively new, opened in 2015) as one of the few new public parks within the TOD, suggesting that the community either loses a school to accommodate a small public park, or if the school is retained, then no additional public open space is provided in this part of the TOD where the greatest population density is proposed.



Park proposed where current primary school (OLA) is located

Concord High School is the only public high school in the City of Canada Bay. In 2022, the school had an enrolment of 1,262 students and has minimal capacity to absorb the number of high school students arising from the proposed Homebush TOD Precinct. The demand for student places from the Homebush TOD Precinct is in addition to population growth occurring in the Rhodes peninsula, the Parramatta Road corridor and in the vicinity of other metro stations and centres in the City of Canada Bay.

Council's submission to the 2022 Parliamentary Inquiry into NSW Public Schools identified the catchments with the highest need for primary school student places within the City of Canada Bay as being Rhodes and North Strathfield-Strathfield, with Forecast id data indicating a 172% and 72% increase in primary school aged children between 2016 and 2031. Similarly, this submission identified the catchments with the highest need for high school places within the City of Canada Bay as being Rhodes and North Strathfield-Strathfield, with Forecast id data indicating a 257% and 92% in high school aged students between 2016 and 2031.

Council's submission also presented analysis that indicated the quantum of population growth forecast for the City of Canada Bay public school catchments meant that the two new proposed schools (primary school at Rhodes and high school at Wentworth Point) would not close or reduce the gap in local public school places. <https://www.parliament.nsw.gov.au/lcdocs/submissions/76926/0007%20City%20of%20Canada%20Bay.pdf>.

With an estimated new population of over 40,000, approximately 26,000 of which are envisaged as new residents within the Canada bay part of the Homebush TOD, it is fundamental that the planning for school infrastructure occurs prior to the rezoning of land. This process should involve direct engagement with School Infrastructure NSW, and should identify the demand for school infrastructure to meet the needs of the growing population,

identify the preferred location for new schools and zone land accordingly. It is untenable for Council and the community to accept land being rezoned for significant densities without those plans making provision for enabling infrastructure being in place.

This is particularly pertinent given the framework established by DPHI for the funding of regional and State Government infrastructure. Unless regional and State Government infrastructure is identified in an endorsed Structure Plan/Master Plan/Place Strategy, it will not be eligible for inclusion in an Infrastructure Opportunity Plan (IOP) and will not be eligible for funding under the Housing and Productivity Contribution.

Health infrastructure

Insufficient analysis has been undertaken to determine the need for new or expanded health infrastructure. Effective demand planning will allow for the strategic expansion or upgrading of infrastructure, such as the addition of new beds, departments, or specialised services. By anticipating demand, hospitals can plan for appropriate capacity, which helps prevent overcrowding and ensures that patients receive timely care.

The Department should consult with the Department of Health, as the Department has indicated previously that it is looking to establish a health facility within the Homebush precinct.

Recommendation

- DPHI confirm that the proposed affordable housing clause will continue to ensure that affordable housing units are transferred in property title to Council.
- Identify the proposed multipurpose community facility to be delivered through the proposed 'Key Site' provision and provided on land in the vicinity of North Strathfield train station.
- The NSW Government must identify the demand for new primary and secondary schools to support the proposed increase in population. These needs must be reflected in the Infrastructure Delivery and Implementation Plan and land zoned for primary and secondary schools.
- DPHI to consult with the Department of Health to determine implications for State health facilities and augmentations to existing health facilities. These needs must be reflected in the Infrastructure Delivery and Implementation Plan.

Appendix A

Precinct Design Guide

The following are suggestions for improving the Precinct Design Guide:

Section 4.2 Public Domain

- Principle f) states “high quality public spaces for use by the general community for passive recreation, working, collaboration, culture and living”. Suggest adding active recreation and children’s playgrounds to ensure these are considered in the design and distribution of open spaces.
- Suggest that all new streets are required to be built with underground powerlines. This will amend the “new streets” section of Table 1: Public Domain Tree Canopy.
- Section 4.2.2 Publicly Accessible Open Spaces should refer to public spaces, and incentivise the dedication of open space to public entities.
- Section 4.2.2 Publicly Accessible Open Space provisions should include a map showing the types of uses that should be provided in each park. This is to ensure the equitable distribution of activities and uses such as children’s playgrounds, dog parks, active recreation, linear recreational activities etc.

Section 4.4 Tree and Ecology

- Section 4.4, including Tables 4-6 should be strengthened to avoid discretionary language such as “where possible”.
- Section 4.4.1, Provision 1 should ensure a minimum of 70% native species.
- Section 4.4.1. Provision 4 should be strengthened by avoiding language such as “where possible”, being precise about what is considered “existing mature trees in good health and condition” and by requiring applicants to show options that include the existing trees to better assess the true impact of retaining them. Trees to be retained should be protected in accordance with the Australian Standard AS 4970-2009 – “Protection of Trees on Development Sites” to ensure viable retention.
- Section 4.4.1, Provision 5 refers to tree categories and correlating size / canopy area in Table 5 that are not appropriate to ensure alignment with a healthy, sustainable and diverse Urban Forest. A small to medium tree should be no less than 12 metres height at maturity and a large tree should be no less than 18-25 metres height at maturity. The indicative mix of trees should be a minimum: 40% large trees (>18 metres height at maturity), 45% medium trees (12 metres or greater) and 15% small trees.
- Section 4.4.2, Provision 6 should be as per the Apartment Design Guide, as a minimum 3m x 3m deep soil provision is less than the ADG provision.
- Section 4.4.3, Provision 1 should require protection and maintained health of existing mature trees in accordance with AS4970 Protection of Trees on Development Sites and AS4373 Pruning of Amenity Trees.

- Section 4.4.3, Provision 2 should require development within a calculated Tree Protection Zone (TPZ) to be in accordance with AS4970. The Guide also needs to include a definition of 'Significant Tree' and clearly define what legislation it is protected under.
- Section 4.4.3, Provision 4 should also require replacement planting in accordance with Canada Bay DCP or minimum ratios of 2:1 on lots greater than 350sqm.
- Section 4.4.4 should be strengthened to require compliance with provisions for biodiversity and habitat connectivity, such as the Canada Bay DCP provisions 6.4 and 6.5.
- Section 4.4.4, Provision 5 should require a Landscape Plan or a Vegetation Management Plan (VMP), where required by provision 4.3.1 Landscape design, is to incorporate any relevant recommendations of the Ecological Assessment report / Vegetation Management Plan / Review of Environmental Factors / Arboricultural Impact Assessment

Section 4.5 Movement network, Streets & Laneways, Bike and Pedestrian Connections

- Figure 5 Access and Movement Network should show active transport links in more detail to better guide future development. Existing and planned footpaths, separated cycleways, shared paths, on-road cycleways should all be shown differently on the plan to avoid confusion.

Section 4.6 Built Form

- The objectives under section 4.6 Built Form should include "to create a high quality desirable place to live, work and play".
- Section 4.6 Built Form objective d) should include "to improve the urban structure".
- Section 4.6.1, Provision 5 should include "built form is to be designed to activate and deliver safe streets and open spaces", after "Built form is to be positioned for optimal access to daylight".
- Section 4.6.2, Provision 4 should include "and safety of" after "Changes in scale should be explored to create interest and enhance the relationship".
- Section 4.6.3, Provisions 1 and 2 should change the word from "encourage" to "ensure" to protect the setting of low scale heritage items, such as single storey houses.
- Section 4.6.4 should specify numeric setbacks above the street walls. This should be based on urban design testing, may be site-specific, and should aim to accentuate the street wall and reduce the monumentality of tall buildings, reduce the perception of building height from the public domain, reduce wind tunnel effects, and encourage more daylight into streets.
- Section 4.6.4, Provision 5 need to be revised as the articulation zones of 0.3m and 0.6m are too narrow to create meaningful articulation. Setbacks and articulation zones

should both be increased to ensure that at least 1m of façade modulation can be achieved.

- Figure 10: A 1-2 storey podium is shown for 165 Parramatta Rd. Suggest this is raised to 3-4 storeys and that residential uses are not permitted within the podium facing highway infrastructure. This is to ensure that the lowest level of future residences have reasonable visual privacy and are able to open their windows.

Section 4.7 Building Layout, Design and Amenity

- Section 4.7.1 should specifically refer to improving the safety of residents and the public domain and may include references to CPTED principles. This is to ensure the provisions are not treated from an aesthetics point of view only.
- Section 4.7.2, Provision 4 should include “replace with breaks down the mass and scale of the building.” After “projections that create interest and”.
- Section 4.7.3 needs to include two scenarios, one for active frontages that are not in a heritage-listed building and one for active frontages that are in a heritage-listed building. The first scenario (for buildings that are not heritage-listed) should encourage active frontages to provide narrow frontages with doors to separate residential and non-residential units every 8m at a minimum. The second scenario (for buildings that are heritage-listed), the provisions need to ensure that existing masonry walls and original openings are maintained, and that any new openings are assessed as part of a heritage assessment.
- Section 4.7.4, Provision 1a) requires “a pedestrian entry and/or primary private open space overlooking the street every 15m.” This distance should be reduced to 8m.
- Section 4.8 needs to require vehicular entries into the Bakehouse Quarter from George Street to be considered as part of a heritage assessment.

Section 5.2 Heritage and Conservation

- Provision 3(c) should be deleted as this is too open-ended, council may not agree with existing policies, and new policies may be more useful than existing.
- Table 15, Heritage area controls for the Bakehouse Quarter
 - The meaning of the phrase “visual impacts to heritage significance” is unclear and needs to be clarified so as to be implementable.
 - The meaning of the phrase “New parapets along the western side of George Street are to be lower at the street edge” is unclear and needs to be clarified. Is it intended to mean that new buildings are to have a parapet at the same height as the heritage building, or lower than the heritage building?

Appendix B

Floor Space Ratio testing

Methodology

The following methodology was used to test the building envelopes and FSR in the sites identified above:

- The plans in the Urban Design Report (pages 71 ,77, and 101) guided the height and extent of built form.
- The assumptions in the Urban Design Report (pages 63, 70, 76 and 100) were applied.
- The front setbacks detailed in the Urban Design Report were applied as minimums.
- GFA measurements were undertaken using CAD software and compared against the GFA provided in the Urban Design Report.
- The ground floor of each block was reduced by approximately 1,000m² GFA to allow for driveways, garbage rooms and other features that don't count towards GFA.

| Location | Block | Urban Design report | | | | Testing | | | | Discrepancies | |
|--|-------|---------------------|---------|--------|--------|------------|---------|--------|--------|---------------|--------|
| | | Block size | Non-res | Res | FSR | Block size | Non-res | Res | FSR | Non-res. | Res. |
| North Strathfield - Mena St to Brussels Street | 1A | 7,391 | - | 20,694 | 2.8 :1 | 7,392 | - | 21,688 | 2.9 :1 | - | +994 |
| | 2A | 7,507 | - | 16,515 | 2.2 :1 | 7,549 | - | 19,565 | 2.6 :1 | - | +3,050 |
| North Strathfield - Pomeroy St to Hamilton St | 1 | 9388 | 3,285 | 29,572 | 3.5 :1 | 9,421 | 3,400 | 35,986 | 4.2 :1 | +115 | +6,414 |
| | 2A | 7957 | - | 25,462 | 3.2 :1 | 7,958 | - | 25,946 | 3.3 :1 | - | +484 |
| | 3A | 8897 | - | 24,911 | 2.8 :1 | 8,885 | - | 24,913 | 2.8 :1 | - | +2 |
| | 3B | 7945 | - | 22,246 | 2.8 :1 | 7,945 | - | 22,549 | 2.8 :1 | - | +303 |
| Parramatta Rd | 5 | 6,105 | 1,831 | 16,483 | 3.0 :1 | 5,856 | 1,870 | 16,361 | 3.1 :1 | +39 | -122 |



Findings

The following findings are drawn from testing the building envelopes and FSR in the sites identified above:

- Most of the sites tested achieved the gross floor area (GFA) identified in the Urban Design Report. The exceptions were the Mena St to Pomeroy St site 2A and Pomeroy St to Allen St 'Site 1'.
- In some instances, it was uncertain how the required ADG building separation could be achieved. For example, site 3B, south of Malta St. As tested, the site achieved the same GFA stated in the Urban Design Report, but only achieved a 22m separation between the two 15 storey buildings. Considering their orientation, it would be difficult to design these buildings so that a non-habitable façade is facing a habitable façade, so the minimum separation required by the ADG would be 24m. It is also noted that, to achieve the stated GFA, the southern building was tested using a 3m setback, not a 6m setback as required by the rezoning material.
- Typically, rectangular "slab" towers were used. Their size was minimised, with depths of 18-20m and lengths usually less than 45m. This is an efficient built form, and when oriented in a north/south direction can help minimise overshadowing to neighbouring buildings.
- In some instances, square "point" towers 25m x 35m were used instead, but the purpose of these changes was not clear. Point towers create efficient floor plates for taller towers that require a larger core, and which can accommodate apartments facing in every direction.
- Podiums were often longer, but not usually over 60m, so not excessively long.



Site 3B as tested, shows the two 15 storey buildings separated by 22m instead of the required 24m. The front setback to Hamilton St was also reduced to 3m instead of 6m to achieve the GFA nominated in the Urban Design Report.

Appendix C

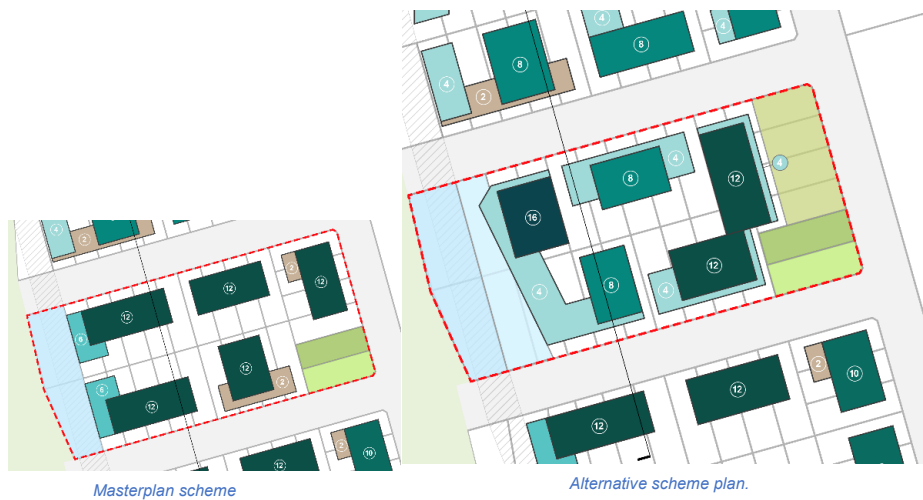
Alternative scheme testing

Alternative test site solutions: Mena St to Brussels St

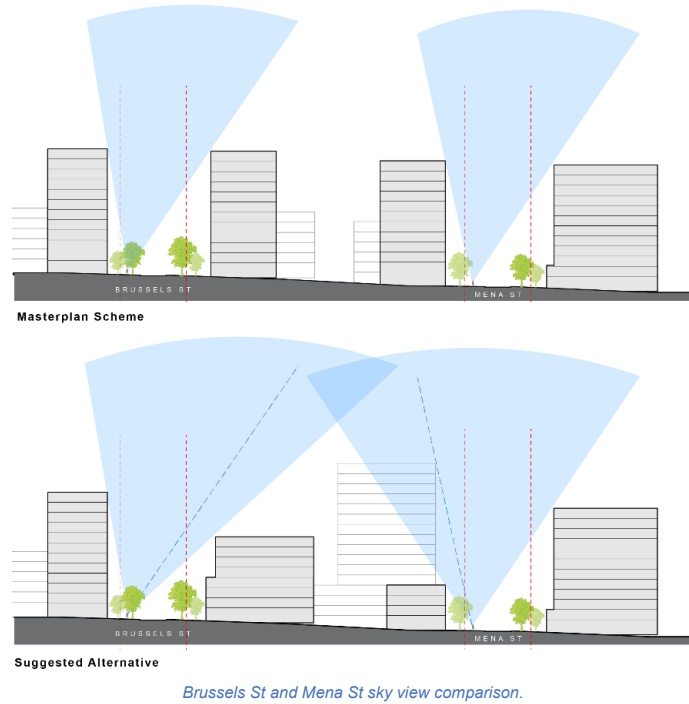
An alternative massing scheme was prepared for a test site between Mena St and Brussels St.

The alternative scheme removes buildings from the flood storage zone and increases the size of WA McInnes Reserve so it provides usable open space and relief from built form along George St.

It also reduces the street wall to 4 storeys, allowing more light into the street and providing a wider view of the sky for pedestrians and residents of lower floors.



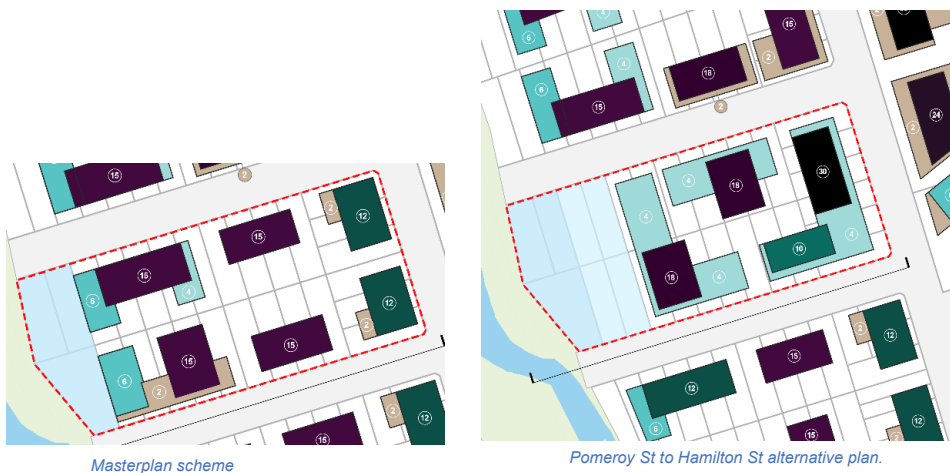
| | GFA (m ²) | Public open space | Flood storage space | Buildings in flood zone | Street wall height |
|--------------------|-----------------------|-------------------|---------------------|-------------------------|--------------------|
| Masterplan scheme | 37,209 | 1,121 | 1,813 | 2 | 2-12 storey |
| Alternative scheme | 34,591 | 1,530 | 2,978 | 0 | 4 storey |
| Change | 7% decrease | 136% increase | 64% increase | reduction | reduction |



Alternative solutions: Pomeroy St to Hamilton St

The alternative massing scheme for the test site between Pomeroy St and Hamilton St removes buildings from the flood storage zone and reduces the street wall to 4 storeys, allowing more light into the street and providing a wider view of the sky for pedestrians and residents of lower floors.

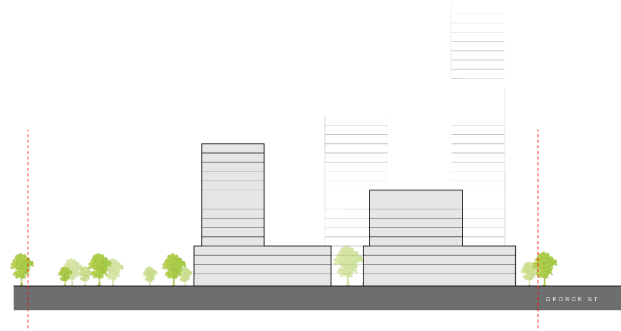
The taller towers in the alternative scheme cast longer shadows, but they move quickly and have minimal impact on neighbouring buildings. Importantly, Hamilton St and the residences on the south side of Hamilton St will receive more light throughout winter.



| | GFA (m ²) | Flood storage space | Buildings in flood zone | Street wall height |
|--------------------|-----------------------|---------------------|-------------------------|--------------------|
| Masterplan scheme | 47,708 | 2,223 | 4 | 2-15 storey |
| Alternative scheme | 50,208 | 4,854 | 0 | 4 storey |
| Change | 5% increase | 106% increase | reduction | reduction |



Masterplan Scheme



Suggested Alternative

Hamilton St street elevation.

Appendix D

Traffic/Transport Advice (over page)

Gold Coast
Suite 26, 58 Riverwalk Avenue
Robina QLD 4226
P: (07) 5562 5377

Brisbane
Level 2, 428 Upper Edward Street
Spring Hill QLD 4000
P: (07) 3831 4442

Sydney
Studio 203, 3 Gladstone Street
Newtown NSW 2042
P: (02) 9557 6202

W: www.bitziosconsulting.com.au

M: PO Box 5102 Q Super Centre
Mermaid Waters QLD 4218

E: admin@bitziosconsulting.com.au



Our reference: P6616.002L Homebush TOD Proposal Review

30 July 2024

General Manager
City of Canada Bay
1a Marlborough Street
DRUMMOYNE NSW 2047

Sent via email: Paul.Dewar@candabay.nsw.gov.au

Dear Sir,

RE: REVIEW OF HOMEBUSH TOD PROPOSAL

This letter provides our review of the draft plans for the Homebush Transport Orientated Development (TOD) proposal as recently exhibited by the Department of Planning, Housing and Infrastructure (DPHI).

This review references our previous work for the Parramatta Road Corridor Traffic and Transport Study and Action Plan (*PRTTAP*) dated 18th February 2022. We have reviewed the input assumptions and outcomes in our 2022 report against the:

- Homebush State-led Rezoning Urban Design Report (Cox, July 2024), the '*UDR*'
- Homebush TOD Rezoning Precinct Transport Statement (Arup, 3 July 2024), the '*PTS*'
- Infrastructure Delivery and Implementation Plan - Homebush State-led Rezoning (Arcadis, 3 July 2024), the '*IDIP*'

1. Development Scale Considerations

The *PRTTAP* was (in part) based on Canada Bay Council's plans for development 'uplift' proposals for the Homebush North and Homebush South precincts as summarised in Figure 1.1. and referred to in that report as the '*uplift areas*'. Outside of the Canada Bay Council, Strathfield Council and Burwood Council uplift areas, the remainder of the study corridor took its land use assumptions for the Parramatta Road Corridor Urban Transformation Strategy (*PRCUTS*).

Using the data in Figure 1.1, an estimate of the *PRTTAP* full buildout population within the DPHI Homebush Precinct Boundary is 29,000-30,000 people and at 2.5 persons per dwelling (consistent with *UDR* assumption) would equate to about 11,500 dwellings. As shown in Figure 1.2, this compares to a residential capacity of 22,900 dwellings published in the *UDR*.

In terms of the spatial distribution of population density, the *UDR* generally maintains *PRCUTS*-planned dwelling densities fronting Parramatta Road. The primary locations where dwelling density and hence Floor Space Ratios (*FSRs*) are proposed to be increased in the *UDR* are along George Street (west of the T9 line) and along Underwood Road, as shown in Figure 1.3.

The *UDR* is silent on development assumptions in the Homebush North Precinct outside of the structure plan area which we presume will default to Council's planning intentions as included in the *PRTTAP*.

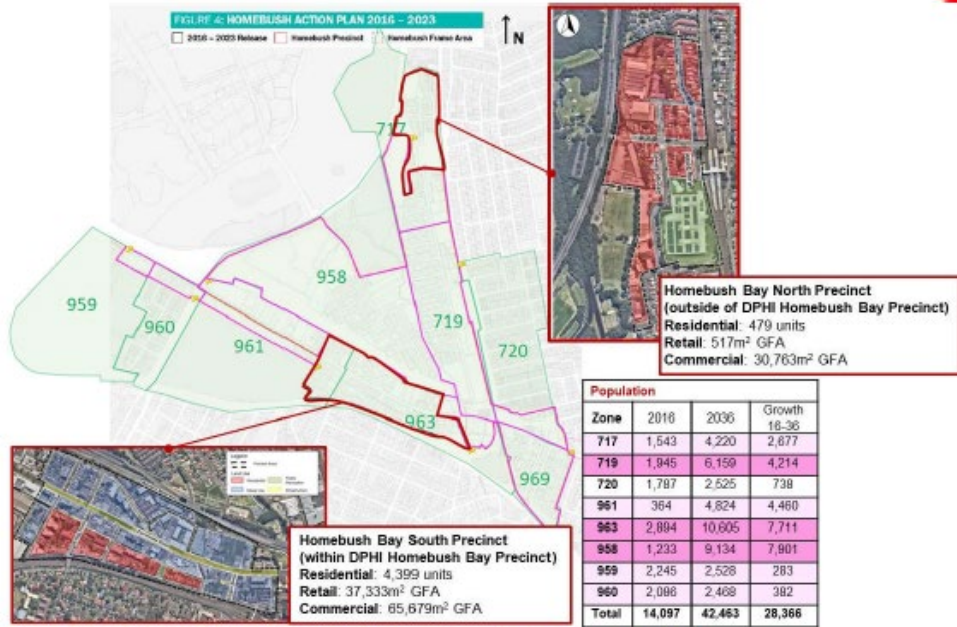


Figure 1.1: PRCTTS Growth Input Assumptions (City of Canada Bay)

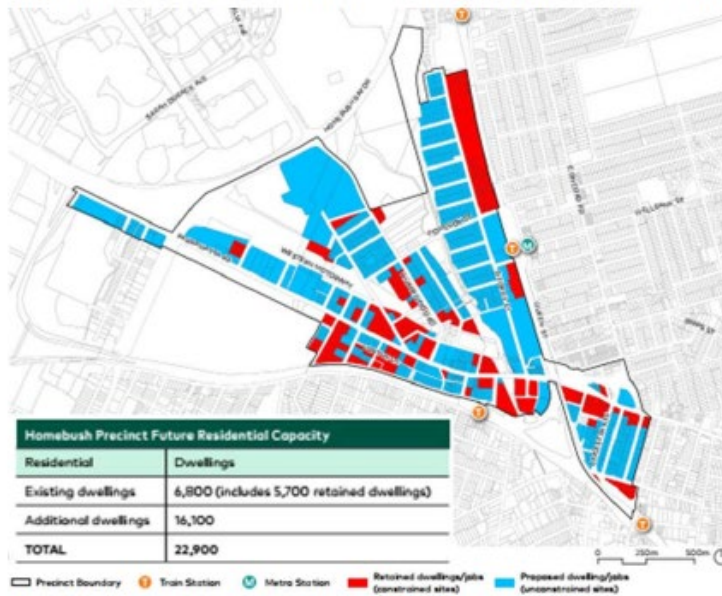


Figure 1.2: Homebush Precinct UDR Residential Capacity

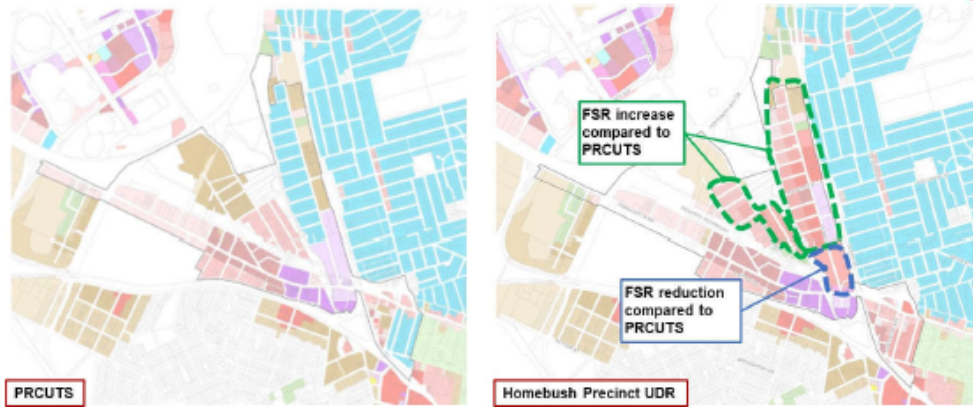


Figure 1.3: Comparison of PRCUTS and UDR FSRs

Section 5.4 of the *PTS* quotes a 2036 population of 21,622 in the TOD master plan and identifies that this is lower than the 2036 *PRTTAP* population of 30,595 for the same TOD precinct area and hence the modelling used in the *PRTTAP* is suitable for assessing the *PTS* for 2036.

It is relevant to note however that the 2036 modelling for the *PRTTAP* was based on the full buildout of the study area for that study but with background traffic (outside of the study area) at 2036 levels. The *PTS* assessment was based on expected 2036 development levels which were estimated at 46% of the full buildout of the TOD precinct proposal.

The *PTS* has not undertaken an assessment of the impacts and needs of the full buildout scenario which would equate to about double the locally-generated transport demands of those considered in the *PTS* and double the 2036 traffic volumes considered in the *PRTTAP*.



2. Transport Strategies

2.1. PRTTAP Future Transport Issues Summary

The *PRTTAP* accounted for Sydney Metro West in its strategies for the Homebush North and Homebush South precincts. This means that when TfNSW ran its regional strategic model for *PRTTAP*, it included the then-proposed Metro West project influence on modal share and hence on the resulting traffic demands to/from and through the corridor.

Key 'full buildout' traffic and transport issues revealed in the *PRTTAP* modelling relevant to the Homebush TOD Precinct included:

- The key controlling pinch point in the Homebush area was identified as The Concord Road/Parramatta Road/Leicester Avenue intersection. In the modelling, this intersection generated very long queues eastbound along Parramatta Road in the 2036 morning peak and 'gated' traffic in the PM peak with very long queues generated westbound back from the intersection
- Parramatta Road through the Homebush Precinct was unable to carry the 2036 traffic demand growth forecast for it (e.g. over 1,000 vehicles in excess of capacity in the morning peak eastbound) meaning either exceptionally long delays to east-west and west-east traffic or relocation of this east-west traffic to other modes, destination or routes.
- More congestion and longer queues on all approaches of the (already congested) George Street / Parramatta and Underwood Road / Parramatta Road intersections partly due to the extra traffic generated by the redevelopment growth in the catchments of Underwood Road and George Street and partly due to heavy prevailing congestion in Parramatta Road by 2036. Queues were forecast to extend northwards beyond Pomeroy Street, the primary east-west support route for this area, with excessive congestion along the extents of Pomeroy Road
- Very heavy local road congestion in Bridge Road, The Crescent and Loftus Crescent, stemming back from Parramatta Road intersections because of the much greater demand imposed at these intersections from the Homebush South precinct coupled with increasing traffic demand along Parramatta Road anyway
- Insufficient local bus routes to service Homebush North to the north of Parramatta Road and to service the Bridge Road (Homebush South) growth catchment south of Parramatta Road
- Poor active transport accessibility to, from and along Parramatta Road as well as east-west for local movements within Homebush Bay North and north-south within with Homebush South, particularly given the rail line as a key barrier.

2.2. PTS Transport 'Challenges' and 'Opportunities'

The *PTS* identified a number of generic traffic and transport challenges for the network, as follows:

- Barriers to creating an efficient and connected network
- Local access on precinct roads and streets (reference much of the work of the PRCTTS)
- Disjointed active transport network
- Limited bus services supporting rail and future metro and for local trips
- Inefficient use of the existing road capacity
- Inadequate streetscape amenity and liveability

The key opportunities described in the *PTS* to address the above challenges primarily related to reducing private vehicle usage and substantially increasing public and active transport usage. Most opportunities stated related to significantly shifting modal share from private vehicles to walking, cycling and public transport by reducing car dependency, reducing traffic capacity and increasing public transport and active transport facilities. The scale of potential modal shift was not identified.



2.3. Comparison of Strategies (PRTTAP v PTS)

The PRTTAP identified that with the full buildout of the study area, it would be inevitable that some of the growth in traffic demand through the study area would avoid it because delays would be excessive. Even with the removal of some through traffic growth, a number of key pinch point improvements were identified as being necessary in the PRTTAP to reduce the excessive impacts of growth in traffic on the local network. These impacts included very long delays on side streets to Parramatta Road meaning very long travel times for local movements between Homebush North and Homebush South.

The PRTTAP also recommended new walking and cycling links for its study area, potential new bus route locations and potential development parking rates for the uplift areas under investigation in the Homebush North and the Homebush South precincts.

The PTS:

- Heavily emphasised additional walking and cycling infrastructure and local street calming changes to improve the street environment for walking and cycling
- Took on board the intersection 'capacity' upgrade recommendations from the PRTTAP
- Recommended some additional local road links compared to the PRTTAP primarily for local accessibility purposes
- Recommended a large number of 'quietways' on short streets where narrow lanes could be implemented and traffic speeds could be reduced to 30 km/h
- Included 'prioritised' and 'aspirational' walking and cycling links at a greater level of granularity than included in the PRTTAP
- Identified that "a redefined bus network should be considered in line with the precinct growth and transformation. This should be developed in coordination by TfNSW, Sydney Metro and councils" without identifying any specific routes, as were nominated in the PRTTAP
- Documents the PRCUTS parking rates and recommends those rates as the development parking rates to adopt for the Homebush TOD precinct.

Overall, the PTS transport strategy relies far more heavily on aspirational modal shift towards walking and cycling than the PRTTAP did and has far less emphasis in managing the impacts of congestion on the local road network.

Also, the PTS has no consideration of local road congestion beyond 2036 (i.e. beyond 46% of full buildout). Without consideration of the full buildout scenario, it is possible that an insufficient number of local road connections will be allowed for in the master plan.

Furthermore, transport impacts and needs to, from and along Parramatta Road post-2036 have not been quantified. This includes the level of modal shift that would be necessary to ensure excessive congestion did not occur if the road space reallocation proposal for Parramatta Road (to public transport) and the full development of the TOD precinct were both realised. Such an assessment is necessary to validate if the vision for far greater residential development than previously anticipated coupled with reduced road capacity could be pragmatic outcome rather than just being an aspirational vision.



3. Transport Infrastructure Projects

Appendix A of the *PTS* includes tables of 'Transport Response Interventions' to the Master Plan. It is important to note that based on the assessment methodology, these actions only relate to 46% development of the full buildout of the Master Plan.

A review of the key action items, with consideration of the findings of the *PRTTAP*, are:

- **Environmental interventions:** Primarily related to new crossings and traffic calming methods (including *quietways* and *shared zones*) throughout the TOD precinct to improve the safety and amenity of pedestrian and cyclist movements. These are logical interventions where more walking and cycling is expected.
- **Walking and cycling interventions:** Most of the recommended walking and/or cycling links were sourced from previous studies and have a sound network connectivity basis for them. For new items identified in the *PTS* it is unclear what items under Action R2.13 (*Provide a new active transport link*) mean in terms of new or upgraded on-road or off-road infrastructure, particularly given that a lot of the items listed already have pathways. More specificity as to the intended infrastructure would provide clarity to this action item. The *PAMP* recommended under Action R2.15 is reasonable but it will be challenging to establish definitive actions within it given that the TOD precinct will be changing significantly with redevelopment.
- **Traffic interventions:** All of the *PRTTAP* recommendations within the TOD area are sourced in the *PTS* except for the proposed new right turn from Parramatta Road into Knight Street. Whilst this right turn has significant local accessibility merit, it is understood the TfNSW is not supportive of this initiative. The other initiatives raised in the *PTS* are mostly for improved local access and seem logical and are unlikely to generate any significant new local 'rat-running' issues.
- **Parking interventions:** The proposed parking rates are consistent with *PRCUTS* and align with the overall approach of attracting residents into the area with a lower reliance on private vehicles and greater reliance on walking, cycling and public transport.



4. Conclusions and Recommendations

4.1. Key Conclusions

The Homebush TOD is estimated to result in nearly 23,000 dwellings within the precinct. The *PTS* has limited its transport needs assessment to approximately 46% of this development (expected by 2036) meaning that the traffic capacity needs findings of the *PRTTAP* are comparable to those of 46% of the full buildout of the TOD. No meaningful metrics-based consideration has been given to the 'master planning' of the transport needs of the remaining 54% of the TOD precinct.

At a little more than 46% of the TOD precinct's development level, the *PRTTAP* identified a severely congested local traffic network even after assumptions were made that a high degree of through traffic would be re-routed outside of the corridor. More local road links and greater management of the interfaces between local streets and Parramatta Road (e.g. turn bans, clearway length extensions, more intersections etc.) would be expected after 2036 and should be identified in a Transport Master Plan for a full development scenario.

Furthermore, whilst the *vision and validate* approach is recognised as the prevailing assessment approach, this does not mean that the potential risks associated with a selected *vision* should not be contemplated at all in the Master Plan; that is, not be *validated*.

The proposal is to double local travel demand to/from the Homebush TOD precinct compared to what was assessed in the *PTS* and at the same time to re-allocate road space on Parramatta Road to public transport. These proposals in combination suggest a substantial modal shift from current usage levels would be essential.

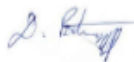
The quantity of modal shift required to walking, cycling and public transport (compared to current modal shares) should at least be validated in the *PTS* to understand if the scale of change is feasible, or if not achievable, how it may be counter-productive to attracting the scale of housing development targeted in such an area as Homebush. Further modelling / analysis would be needed to validate the pragmatism of the vision at full build out including as well as for understanding public transport capacity needs which have not been considered in the *PTS*.

4.2. Recommendations

It is recommended that Council respond to the Homebush TOD proposal noting that:

- *The scale of development proposed at full buildout of the Homebush TOD is about double what has previously been assessed for the area by any study. The full development vision and its associated transport actions included in the PTS should be modelled to validate that the shift in modal share away from private vehicle usage needed across all trip purposes and all trip destinations is foreseeable. Such an analysis should consider trips and modal shares to, from, within and through the precinct and should benchmark the required modal shares against developed centres in similar contexts elsewhere.*

Yours faithfully



Damien Bitzios
Director

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BITZIOS CONSULTING

Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au



Finalisation Report

Homebush

Transport Oriented Development Precinct



November 2024



Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Published by NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

Finalisation Report

First published: November 2024

Department reference number: EF23/13712

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Executive Summary

This Finalisation Report provides an assessment of the State-led Rezoning Proposal seeking to amend the planning controls relating to the Homebush Transport Oriented Development (TOD) Precinct. The Homebush Rezoning Proposal (Rezoning Proposal) seeks to:

- focus new development on land closest to the stations to maximise the number of residents and workers within an easy walk of the stations and shops
- locate the tallest buildings around the stations
- provide for taller buildings with smaller footprints so that a better public domain, more public open space and high quality streetscapes can be delivered
- plan for a mix of buildings to provide variety and interest and increase housing choice.

The Rezoning Proposal was exhibited from 16 July to 30 August 2024 and received a total of 634 submissions from individual community members, community groups, landowners, NSW Government agencies, City of Canada Bay Council and Strathfield Council (Councils). The issues raised in submissions have been considered by the Department of Planning, Housing and Infrastructure (the Department) in the finalisation of this Rezoning Proposal.

The *Canada Bay Local Environmental Plan 2013* (Canada Bay LEP) and *Strathfield Local Environmental Plan 2012* (Strathfield LEP) will be amended through a self-repealing State Environmental Planning Policy (SEPP) to align existing instruments with the objectives and controls of the Rezoning Proposal.

This Finalisation Report has been drafted by the Department. The Department has worked in collaboration and consultation with the Councils and State Government agencies to prepare the Rezoning Proposal.

1 Introduction

This report presents the Department's assessment and finalisation of the proposed planning amendments to deliver the Homebush Precinct.

The Rezoning Proposal will support a transition to a high-density transport-oriented precinct comprising a range of housing types, supported by commercial and industrial development, community infrastructure, active transport links and open space.

The purpose of this report is to provide an overview of:

- the planning context for the Precinct
- the exhibited proposal and supporting documents
- consultation and public consultation
- matters arising from public exhibition and resolution in the final plan.

Amendments to the Canada Bay LEP and Strathfield LEP will enable the delivery of:

- approximately 18,000 new homes
- capacity for 3,000 new jobs
- new and improved public open spaces
- 3% affordable housing where land is being rezoned for a residential use and higher rates for key sites; 4% for the Bakehouse Quarter site and 5% for 19-21 Columbia Lane, Homebush
- supporting social infrastructure including a 3,000m² multipurpose community facility and library
- improved cycle and pedestrian network.

The assessment of the Rezoning Proposal is based upon the proposed masterplan in the Urban Design Report, Design Guide and supporting technical studies exhibited by the Department from 16 July and 30 August 2024, additional studies undertaken and consideration of comments and feedback obtained during exhibition of the Rezoning Proposal.

2 Context

The Department is responsible for undertaking a comprehensive assessment of the Rezoning Proposal to determine its appropriateness, carefully considering environmental and social factors, and identifying the infrastructure needs of the future population. The Department has undertaken this assessment, taking into consideration feedback from the public and other stakeholders, in collaboration with relevant State agencies and local Government and makes a recommendation to the Minister for Planning and Public Spaces for determination.

2.1 Site Context

The Precinct is located approximately 12 kilometres west of the Sydney Central Business District and 9km south-east of the Parramatta CBD and is approximately 200 hectares in area (Figure 1). The Precinct is located within the Canada Bay and Strathfield Local Government Areas (LGAs).

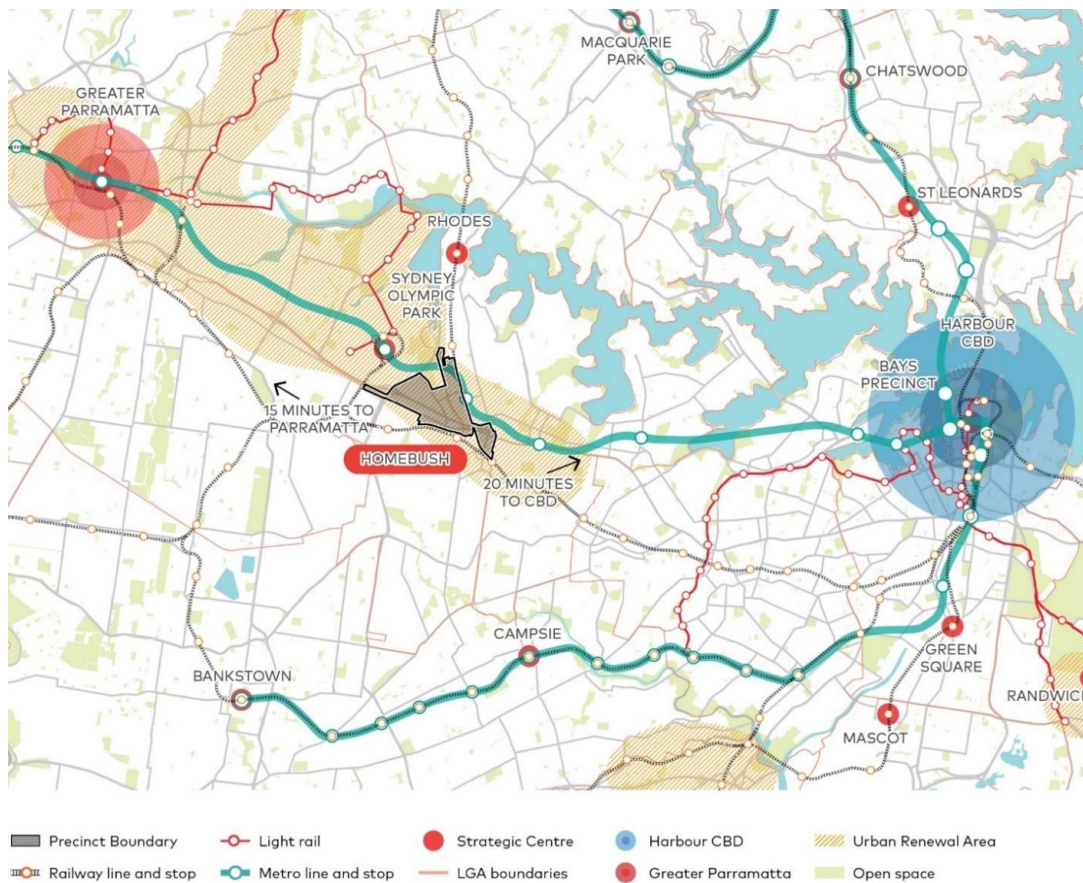


Figure 1: Homebush's regional context. Source: Homebush State-led Rezoning Urban Design Report November 2024, COX

The Precinct is positioned between Homebush Station, North Strathfield Station and Strathfield Station (Figure 2). The Precinct is bounded to the north and west by Homebush Bay Drive and Mason and Bressington Parks, and Rothwell Avenue and the Main Western Rail Line to the south, and the Main Northern Rail Line and Swan Avenue to the east.

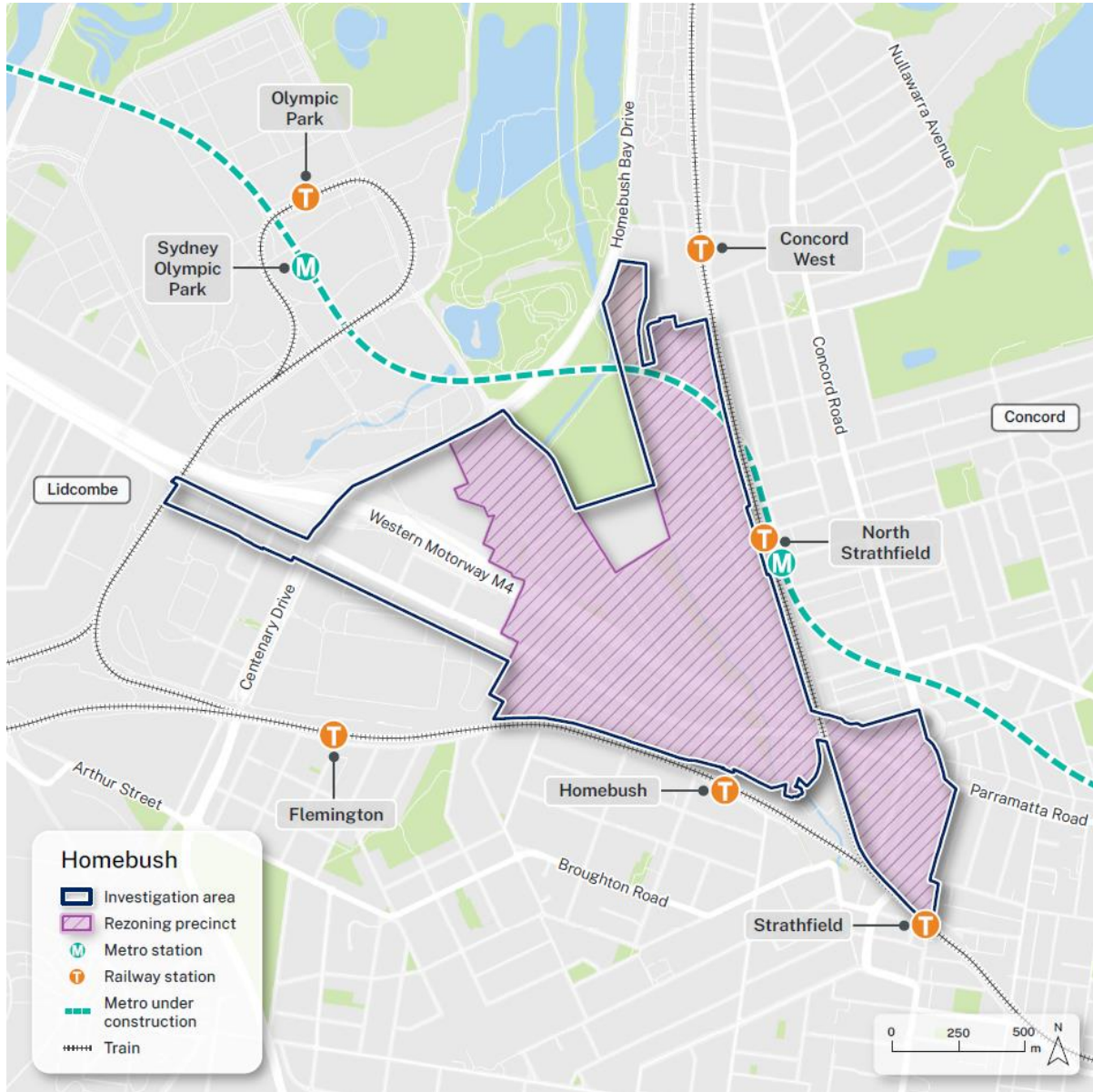


Figure 2: Homebush TOD Precinct area

2.2 Strategic Context

2.2.1 Transport Oriented Development Program (2024)

On 7 December 2023, the NSW Government announced the Transport Oriented Development (TOD) Program to create more well-located homes close to transport, jobs and services. As part of the TOD Program, the NSW Government identified eight Sydney transport hubs (TOD Accelerated Precincts) for state-led accelerated rezoning to deliver up to 47,800 new, well-located, high and mid-rise homes over the next 15 years.

The TOD Program has stemmed from the National Housing Accord announced by the Australian Government in October 2022 as part of the Federal Budget to address the supply and affordability of housing. The Accord includes an initial aspirational target to build 1.2 million new well-located homes over 5 years from July 2024. NSW has been tasked to provide 377,000 new homes by June 2029.

The Homebush Precinct is one of 8 priority high growth areas near transport hubs in Greater Sydney for accelerated rezoning.

2.2.2 Greater Sydney Region Plan

The Greater Sydney Region Plan establishes directions, objectives and actions to achieve the 40-year vision which are focused on infrastructure and collaboration, liveability, productivity and sustainability.

The Region Plan also aims to provide ongoing housing supply and a range of housing types in the right places to create more liveable neighbourhoods and support Sydney's growing population. The plan identifies Homebush within a broader urban renewal area. Homebush is also east of Sydney Olympic Park and south of Rhodes which are identified as strategic centres and commercial office precincts and are centres expected to accommodate high levels of private sector investment to enable them to grow and evolve.

2.2.3 Eastern City District Plan

The Eastern City District Plan identifies the Precinct as being within an urban renewal area, positioned to provide opportunities for increasing housing capacity. The plan also identifies Powells Creek and Mason Park as areas to provide walking and cycling links, urban greening, stormwater treatment and a mix of open space uses that link Concord West, North Strathfield, Homebush and Strathfield to Parramatta Road, Bicentennial Park and the Parramatta River foreshore.

2.2.4 Parramatta Road Corridor Urban Transformation Strategy – Homebush Precinct

In November 2016, the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS) was released by then UrbanGrowth NSW. It is the NSW Government's 30-year plan setting out how the Parramatta Road corridor will grow and bring new life to local communities living and working along the corridor.

The PRCUTS seeks to deliver a high quality multi-use corridor with improved transport choices, to provide better amenity and balanced growth of housing and jobs in eight Precincts across six LGAs. Homebush is one of these Precincts.

The Rezoning Proposal aims to review, refine and implement the existing planning work through a State-led process and identify opportunities for further growth in the Precinct through refinements to the PRCUTS planning controls, where appropriate.

2.2.5 Governance

A Governance framework has been implemented to enable NSW Government Agencies and Councils to work collaboratively to deliver the Precinct. These governance arrangements include the:

- Executive Advisory Group (EAG) - Senior Executive level representatives from the Department, State agencies and the Councils. Provides oversight and direction for the planning activities in the Precincts, including matters identified by the Project Working Group (PWG).
- Project Working Group (PWG) - Executive and Officer level representatives from the Department, State agencies, and the Councils. A forum for discussion and resolution of strategic matters, facilitating an opportunity for comments and advice on the rezoning proposal, and related technical studies for the Precincts by relevant state and local Government agencies.

3 Exhibited Rezoning Proposal

3.1 Amendments to Land Use Zoning

The Rezoning Proposal was exhibited to seek public feedback. The exhibited Rezoning Proposal identified areas of the Precinct that could support new homes and proposed amendments to land use zoning and other planning controls for future development.

The proposed amendments to the Canada Bay LEP and Strathfield LEP establish land uses and controls for future development to enable high quality outcomes and mitigate impacts in relation to future development.



Figure 3: Exhibited concept plan render (Source: COX Architecture)

3.2 Design Guide

A new provision was proposed to require the consent authority be consistent with a Design Guide before granting consent to development in the Precinct. The Design Guide will be made by the Planning Secretary's delegate and will apply to all new local and State Significant Development (SSD) applications within the Precinct. The provision in the Canada Bay and Strathfield LEPs will give legislative weight to the Homebush Precinct Design Guide.

The Design Guide sets out a suite of built form and urban design provisions that facilitate high quality outcomes for built form, public domain and infrastructure enhancement.

Specifically, the Design Guide addresses:

- Connecting with Country
- built form and design
- land use and desired future character
- public open space, landscape design and public domain
- affordable housing
- movement network, including vehicle and active transport connections and access
- heritage and conservation
- flooding and stormwater management.

Post-exhibition amendments to the Design Guide are outlined in Section 6 of this report.









4 Community Engagement

The Rezoning Proposal was publicly exhibited on the NSW Planning Portal from 16 July to 30 August 2024. A total of 634 submissions were received during the exhibition period.

Consideration of the issues raised in submissions is presented in Section 5 of this report. All submissions have been published on the Planning Portal. In addition, the Department held meeting with landowners and other key stakeholders during the exhibition period, including continuing to collaborate with other State Government agencies and technical specialist in finalising the Rezoning Proposal.

We would like to take this opportunity to thank the community and other key stakeholders for their ongoing interest, feedback, and support.

4.1 How we consulted

-  5,004 letters issued to landowners
-  259 emails to contacts who opted in for project updates
-  290 people attended 8 in-person community sessions
-  215 people engaged via an online information session
-  23,559 website visits via digital channels
-  503,750 ads displayed via targeted digital and social media advertising campaigns
-  Advertisements in the Parra News and Auburn Review, Australian Chinese Daily and Sydney Korean Herald
-  One on one meetings with landowners and other key stakeholders

4.2 Who we heard from



609 submissions were from community members



13 submissions were from community organisations



7 submissions were from Government agencies

5 Assessment of Key Issues

The Department has considered the issues raised in submissions during the exhibition of the Rezoning Proposal and prepared revisions to the draft planning controls in response to submissions.

The following key assessment issues have been identified:

1. Traffic and transport
2. Density and building height
3. Precinct boundary
4. Infrastructure
5. Public open space
6. Affordable housing provision
7. Flooding and biodiversity
8. Heritage
9. Environment (other)

Where necessary, further amendments to the exhibited planning framework have been introduced to address submission issues. These amendments form part of the Department's assessment.

5.1 Traffic and Transport

5.1.1 Road Congestion

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> Submissions from the public and Councils raised concerns with existing and potential future impacts to road congestion and impacts to key intersections. Concern was particularly raised about the George and Pomeroy Street intersection performance. | <ul style="list-style-type: none"> The Department has taken an integrated approach to land use and transport by locating new homes in an area that is well serviced by public transport, active transport networks, amenities, parks and schools. This gives people more travel choices to their destinations, with infrastructure improvements to facilitate more trips that can be made by walking, cycling and catching public transport services. Thereby reducing the reliance on car use especially for short local trips that will help moderate congestion on the road network. The Rezoning Proposal leverages the NSW Government's commitment to Sydney Metro West and the future Metro station at North Strathfield, as well as the proximity to several existing train stations and its central location between Sydney and Parramatta. This will minimise the reliance of new residents on private vehicle use. The Precinct Transport Statement was prepared in consultation with the Councils and TfNSW and identifies localised transport initiatives to make it easier to walk, cycle and catch public transport to reduce the impact of traffic congestion for residents, workers and visitors. These include improved pedestrian crossings, improved and new cycleways, and targeted upgrades on the local road network. Improvements are recommended at key intersections including George Street/Pomeroy Street intersection, Underwood Road/Pomeroy Street, Parramatta Road/Bridge Road and Parramatta Road/Knight Street and Cooper Street/Leicester Avenue. Transport upgrades are identified in the exhibited Infrastructure Delivery and Implementation Plan and have been refined at finalisation in response to submission feedback. |

5.1.2 Car Parking

| Submission points | Response |
|--|---|
| <ul style="list-style-type: none"> Submissions from the community requested more car parking in the area to support the growth. | <ul style="list-style-type: none"> Parking requirements proposed for new residential developments are generally consistent with the recommendations as previously outlined in the PRCUTS Planning and Design Guidelines. Having less off-street parking in new developments near frequent public transport and amenities can influence changes in travel behaviour towards greater use of active and public transport and may contribute to lower construction costs and improved housing affordability. The Department notes the City of Canada Bay Council is supportive of applying the PRCUTS car parking rates. |

5.1.3 Public Transport

| Submission points | Response |
|--|--|
| <ul style="list-style-type: none"> Submissions from the community and Strathfield Council requested additional and more frequent public transport services to address the growth. | <ul style="list-style-type: none"> The NSW Government has committed to the delivery of Sydney Metro West with a station at North Strathfield to service the people who live in the Precinct. Targeted for opening in 2032, the new Metro line will directly serve additional new residents as well as provide relief to existing train stations such as Homebush Station to accommodate increase demand from residents. The Rezoning Proposal recommends improved local bus services to be planned by TfNSW as growth occurs within the Precinct. TfNSW is currently investigating options for improved public transport along Parramatta Road. The Department has made a post-exhibition change in response to a request from TfNSW to facilitate future road widening at locations along Parramatta Road in the Precinct for bus lanes. This land will be identified for acquisition by TfNSW on the Land Reservation Acquisition Map. |

5.1.4 Active transport

| Submission points | Response |
|--|--|
| <ul style="list-style-type: none"> Submissions from the community and the Councils identified the need for additional pedestrian and active transport infrastructure to support the growth. | <ul style="list-style-type: none"> The Rezoning Proposal includes active transport improvements, additional crossings, improved and new cycleways. The Rezoning Proposal takes a Precinct wide approach to creating safer streets for people throughout the Precinct, with high quality separated bicycle infrastructure on key corridors. |

5.2 Density and building height

Submissions regarding height and density were mixed, with many landowners requesting increased building height and FSR to those proposed, while others objected to the height and density of the overall proposal.

5.2.1 Density concerns

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> Some public submissions raised concerns that increased density and heights would create a built form that is out of character with the area and result in overpopulation and over-development. The City of Canada Bay Council's submission raises a general objection to the number of dwellings proposed in the Precinct and considers the density excessive. | <ul style="list-style-type: none"> The increased density and height proposed in the Rezoning Proposal have been tested to secure quality urban design outcomes and minimal amenity impacts on surrounding sites whilst creating the capacity to provide more homes close to the train stations and future Metro station at North Strathfield. The Rezoning Proposal for Homebush has been informed by comprehensive analysis of the constraints and opportunities that exist in the Precinct. The Rezoning Proposal includes opportunities for new and improved infrastructure, such as parks and walking and cycling public transport infrastructure, that would support the projected population growth. |

5.2.2 Requests for increased density

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> Some landowners requested increased density and heights to address development feasibility and enable development on specific sites. Some landowners sought increases to enable delivery of identified public benefits on their sites. | <ul style="list-style-type: none"> The Department has reviewed feedback from landowners during exhibition to determine the merit of any amendments to the exhibited heights and densities. This process has involved a review of alignment with the urban design framework and principles previously prepared (and exhibited) and site-specific merit as outlined under Section 9. Focus has been placed on testing the landowner submissions relating to sites that have merit and are identified to provide public benefits such as publicly accessible open, roads, through-site links, or have offered to provide new public benefit in response to additional density. This has resulted in some revisions to height of buildings and FSRs (both base and incentive) to increase the development potential of certain sites, as well as various amendments to the key sites provision to require community infrastructure provision. The additional uplift on certain sites post-exhibition will enable the delivery of additional public benefits such as open space, a community facility and more affordable housing. |

5.3 Precinct boundary

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> Some public submissions as well as Canada Bay Council, queried the Precinct boundary, particularly the exclusion of the eastern side of North Strathfield Train Station Some landowners outside the Precinct requested the boundary to be expanded to reconsider additional nearby sites for inclusion in the Rezoning Proposal. | <p>North Strathfield Train Station</p> <ul style="list-style-type: none"> The Precinct boundary matches the areas outstanding for rezoning in the Homebush PRCUTS Precinct and was used to leverage existing strategic planning and accelerate the rezoning. The Rezoning Proposal therefore only considered renewal on the west side of North Strathfield Train Station (consistent with the PRCUTS boundary). The Department has also identified North Strathfield as a site where the TOD Tier 2 (Housing SEPP Chapter 5 provisions) will apply. The Housing SEPP provisions apply generally within 400m of identified train stations to allow for residential flat buildings and shop top housing up to 6 storeys. There is an overlap between the application of the TOD Accelerated Precinct and TOD Tier 2, as the Homebush TOD Precinct includes the area directly west of North Strathfield train station. The North |

| Submission points | Response |
|-------------------|---|
| | <p>Strathfield Tier 2 area will not apply to the Homebush TOD Precinct area but will apply to the east of North Strathfield train station and will come into force at the same time as the Homebush TOD Rezoning Proposal.</p> <ul style="list-style-type: none"> Notwithstanding, this would not preclude future review of built form controls on the eastern side of North Strathfield Train Station by the City of Canada Bay Council to respond to the Homebush TOD Rezoning Proposal. <p>General requests for Precinct boundary expansion</p> <ul style="list-style-type: none"> The Department has not amended the boundary to include any additional sites except one additional adjoining site at 19-21 Columbia Lane, Homebush that the PRCUTS had left out to due to an assumption that has since changed (see section 6.1.6). |

5.4 Infrastructure

5.4.1 Infrastructure (general) and local infrastructure contributions

| Submission points | Response |
|--|--|
| <ul style="list-style-type: none"> Submissions from the public suggest that essential servicing infrastructure will not be capable of supporting the increased demand. Submission from the City of Canada Bay Council requests that a draft local infrastructure contributions plan be prepared and finalised prior to rezoning of the Precinct. | <ul style="list-style-type: none"> The Department undertook analysis of 305 transport stations within the Greater Sydney, Hunter, Central Coast and Illawarra regions to identify locations that have enabling rail, water and wastewater infrastructure capacity near the transport station to support additional housing growth. This analysis identified that Homebush has capacity to support additional growth. The Department has been working with both Strathfield and the City of Canada Bay Councils to prepare draft local infrastructure contributions plans to support the Homebush TOD. Given the extent of post exhibition changes that will impact on the local contributions plan infrastructure works schedule, the draft local contributions plans will not be in place by the time the rezoning is finalised. The Department will continue to work with Strathfield and the City of Canada Bay Councils to update the draft Plans based on Councils' feedback and post exhibition changes (including new public open spaces, traffic and active transport upgrades). It is expected that a local contributions plan for the Homebush TOD will be in place before the end of Quarter 1 2025. Councils' existing |

| Submission points | Response |
|-------------------|---|
| | <p>contributions plans will apply to development applications determined prior to the new contributions plan coming into force.</p> |

5.4.2 Schools and health infrastructure

| Submission points | Response |
|---|--|
| <ul style="list-style-type: none"> Submissions from the public and the Councils suggested that additional schools and health infrastructure are required to support the Rezoning Proposal. | <ul style="list-style-type: none"> The Department has worked collaboratively with key state agencies including Schools Infrastructure (Department of Education (DoE)) and NSW Health to ensure sufficient infrastructure is provided to support the growth in the Precinct. Schools Infrastructure (DoE) have indicated that demand generated by the rezoning (at full build out) will require the provision of additional school infrastructure. These locations would need to service the demand generated by the rezoning and locations would be confirmed subject to further investigations and engagement with stakeholders. This is in addition to existing projects including additional capacity for Wentworth Point Public School and a new primary school servicing the Carter Street Precinct. Schools Infrastructure (DoE) have also advised that high school demand can be met by capacity delivered through existing projects (Wentworth Point High School and Concord High School) and therefore a new high school is not required as a result of the Rezoning Proposal. This is in addition to a future high school planning as part of the Sydney Olympic Park 2050 Masterplan. Schools Infrastructure (DoE) will continue to monitor growth to ensure adequate capacity is provided to support the future population of the Precinct. New schools and upgrades will be programmed subject to further due diligence investigations, timing and staging analysis. NSW Health provided a submission (see Section 4) that indicated that dedicated health and community services could be included in retail gross floor area. The Rezoning Proposal facilities opportunities for these uses through provision of additional mixed use floor space. |

5.4.3 Open space and community facilities

| Submission points | Response |
|--|--|
| <ul style="list-style-type: none"> The City of Canada Bay Council requested relocation of the proposed open space at North Strathfield station and an expansion of the WA McInnes Reserve. Strathfield Council requested the proposed open space plan be delivered equitably and a range of open space typologies be developed. The City of Canada Bay Council requested provision of a community facility through the Key Sites incentive provision. Some landowners raised concern that the requirements for provision of publicly accessible open space would adversely impact development feasibility (Addressed at Section 5.5) | <p>Open space</p> <ul style="list-style-type: none"> Community submissions raised concerns around a lack of open space to meet future population needs as well as identifying a need for new quality open spaces to support the population increase. The City of Canada Bay Council requested the location of the proposed open space near North Strathfield Metro station be moved north to better align with the Metro Station entrance and that WA McInnes Reserve should be further expanded. Strathfield Council had raised concerns around the provision of open space within its LGA from the Rezoning Proposal and requested a more equitable distribution of open spaces. In response to the submissions, the Department has identified new open spaces and embellishments to existing open spaces across the Homebush Precinct including the expansion of WA McInnes Reserve, North Strathfield Station Park, Powells Creek Park and Swan Ave Park. The Department has reconsidered the location of the open space near the North Strathfield Metro Station and moved it north to better align with the Metro Station. In response to Strathfield Council's concerns, the Department has identified additional open spaces within Strathfield LGA to ensure a more equitable distribution and includes new and expanded open space at Derowie Avenue Park, Homebush Theatre Park, Homebush Station Park and additional pedestrian links at Knight Street. <p>Community space</p> <ul style="list-style-type: none"> The City of Canada Bay Council requested that a multi-purpose community facility be delivered through a key site incentive provision and suggested various locations in North Strathfield. In response, the Department has identified the community facility to be delivered through a key site incentive provision within future development opposite North Strathfield Metro Station. <p>Open space acquisition at Bakehouse Quarter</p> <ul style="list-style-type: none"> The exhibited Explanation of Intended Effect (EIE) identified new public open space at the Bakehouse Quarter adjacent to the M4 to be delivered through a key site incentive approach. |

| Submission points | Response |
|-------------------|--|
| | <ul style="list-style-type: none"> The Department is proposing to deliver a new open space in each TOD Accelerated Precinct and has identified post exhibition approximately 0.9ha of land to deliver new public open space to support the Rezoning Proposal. Department is proposing the land be rezoned to RE1 Public Recreation and is funded from the NSW Government \$520 million for community infrastructure from the HPC fund. |

5.5 Public open space

5.5.1 Key sites and amalgamations

| Submission points | Response |
|---|--|
| <ul style="list-style-type: none"> The City of Canada Bay Council requested all sites should be required to amalgamate and identified on the key sites map Strathfield Council requested amalgamation requirements should be emphasised to ensure the orderly development and to limit the creation of isolated sites. Some landowners raised concern that the requirements for provision of public open space would adversely impact development feasibility. | <ul style="list-style-type: none"> In response to the Council submissions, it was not considered appropriate to map all sites within the Precinct as key sites. The key sites are principally identified to deliver public benefit such as open space or roads and to enable flexibility in the development outcome of non-key sites. The Design Guide does contain provisions to ensure development does not result in the creation of isolated sites and requires development areas to comply with the minimum indicative lot sizes. The Rezoning Proposal has been tested to ensure heights and density are appropriate to deliver community benefit. The key sites have been incentivised to assist in the delivery of public benefits through the transfer of development floor space from the land containing the public benefit to the developable portion of the site. Sites that do not deliver the public benefit or amalgamate in accordance with the Key Sites Map will not be able to utilise the incentive provisions and the existing planning controls will continue to apply. |

5.6 Affordable housing

| Submission points | Response |
|--|--|
| <ul style="list-style-type: none"> • Submissions from the community, Councils and industry advocated for a specific affordable housing contribution rate, rather than a range. • Many landowners requested additional detail regarding the proposed affordable housing rates and raised concern regarding potential impacts on development feasibility. • Some community and community group submissions requested more affordable housing be required. • There were submissions from the community in support of the exhibited rates. | <ul style="list-style-type: none"> • The Department had suggested an affordable housing contribution rate for Homebush TOD Accelerated Precinct between 5 and 10%, to be provided in perpetuity across all sites in the Precinct. • In response to submissions, the finalised Rezoning Proposal has identified specific contributions rates for the Precinct. • During exhibition, concerns were raised about the rate at which affordable housing contributions are being enforced and whether they were feasible enough for development to occur. • In response to submissions, feasibility testing has been undertaken to determine evidence based affordable housing contribution rates within the Precinct. As a result, for Homebush TOD a contribution rate of 3% applies, to be provided in perpetuity across all sites with a higher rate to apply to the following affordable housing key sites: <ul style="list-style-type: none"> • 4% for the Bakehouse Quarter site • 5% for 19-21 Columbia Lane, Homebush • Affordable housing key sites are required to deliver a higher rate linked to a higher amount of uplift and have been feasibility tested. Based on the feasibility analysis, two affordable housing key sites has been identified within the Homebush TOD Precinct as detailed above. • The contribution will be administered through the Canada Bay LEP 2013 and Strathfield LEP 2012. • The clause will include an affordable housing contribution scheme that allows Council or the consent authority to impose as a condition of consent for development applications, to collect an affordable housing contribution on floor space in the form of homes with a minimum of 50m² and/or a monetary contribution equivalent to the floor space. • All development that results in at least an additional 200m² of floor space within the Rezoning Proposal will be required to pay contributions. • Exempt Development and Complying Development Certificates will not be captured under the clause. |

5.7 Flooding and biodiversity

5.7.1 Flooding

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> DCCEEW considered the exhibited Flood Impact and Risk Assessment and Stormwater Management Strategy (FIRA) provides a good base of preliminary information however requested additional detail and modelling on certain flood risks and emergency management constraints. DCCEEW also provides various suggested amendments to the draft Homebush Design Guide. City of Canada Bay and Strathfield Council raised some general flooding matters which were addressed in the FIRA but also requested clarification on the flood division line. Community submissions questioned the accuracy of the flood assessment. | <p>Flood Risk Impact Assessment Report (FIRA)</p> <ul style="list-style-type: none"> Updated flood modelling data has been incorporated into the FIRA that accompanies the finalised Rezoning Proposal. The Design Guide has been updated to reflect DCCEEW comments and recommendations in the FIRA. The FIRA confirms that the resulting flood behaviour is generally no worse off under the current climatic conditions despite post exhibition changes, including no significant changes to velocity, hazard hydraulic categories or flood planning constraints categories for the 1% AEP event. The updated flooding modelling data also provides further information and guidance regarding evacuation constraints within certain areas of the precinct to better assist land owners at the development application stage including updated Design Guide controls. <p>Flood Division Line</p> <ul style="list-style-type: none"> The City of Canada Bay and Strathfield Councils have made a request for an explanation of the flood division line. The Department's consultant has updated the FIRA to include discussion of the flood division line. <p>Accuracy of the flood assessment</p> <ul style="list-style-type: none"> Some community submissions questioned the accuracy of the flood assessment based on their experience of flooding in certain parts of the Precinct. The FIRA has been reviewed by DCCEEW and the Councils and requested updates, clarifications and amendments have been incorporated in the FIRA. |


5.7.2 Biodiversity

| Submission points | Response |
|--|---|
| <ul style="list-style-type: none"> DCCEEW and Strathfield Council recommended additional studies to be undertaken due to potential impacts of new development and increased population on nearby significant flora and fauna. | <ul style="list-style-type: none"> The protection and enhancement of biodiversity values, as well as increased tree canopy cover and urban greening, have been key considerations in the development of the Rezoning Proposal. In response to the submissions received, the Department procured a Biodiversity Vegetation Assessment (EMM, 2024). The assessment indicated that the Precinct has been subject to extensive prior clearing and development for industrial, commercial and residential land uses. The vegetation within the urban landscape of the Precinct is generally comprised of native and exotic urban vegetation, in the form of street trees, public open spaces and residential properties and generally offers minimal habitat for threatened species or ecological communities. The assessment notes that the Mason Park wetland (located at the edge of the Precinct) represents the highest biodiversity values including providing habitat for migratory birds, and should be protected from indirect impacts from the Rezoning Proposal. The Design Guide has been amended to include provisions maintaining and enhancing ecology, biodiversity and habitat connectivity including management of indirect impacts on Mason Park Wetland. |

5.8 Local heritage items

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> Submissions were received both in support of and objecting to the proposed heritage listing of 7 and 11 Knight Street, Homebush. A submission from the City of Canada Bay Council requested the removal of the existing heritage listing of a house at 64 Concord Road, North Strathfield. | <p>7 and 11 Knight Street, Homebush</p> <ul style="list-style-type: none"> The exhibited Heritage Significance Assessment Report (GML, 2024) recommended listing two residential flat buildings at 7 and 11 Knight Street, Homebush as local heritage items. The exhibited Explanation of Intended Effect identified the proposed heritage items and other lots as part of a key site amalgamation to deliver new open space. Submissions received during exhibition included both support and objections to the listing of these items including objections from Strathfield Council and landowners. |

| Submission points | Response |
|--|---|
| <ul style="list-style-type: none"> Submissions were received from the community and the Councils requesting the de-listing of various other heritage items and/or Heritage Conservation Areas (HCAs). | <ul style="list-style-type: none"> Strathfield Council acknowledged there is some local historical interest associated with the properties but they were not considered to represent the finest and best example of Art Deco apartment buildings within the LGA or inner west area. Council's position supported identifying the sites as public open space and incorporating them into the adjoining amalgamated development site. This represents an enhanced development outcome that will offer greater benefits to the character of the area and amenity of future residents than listing the two sites as heritage items. The Department considers there is a greater public benefit in delivering new publicly accessible open space as part of a key site amalgamation over progression of the heritage listing for these two sites. In response to submissions a revised key site amalgamation map has been prepared to deliver expanded new open space on this site. <div data-bbox="667 936 1329 1536" data-label="Image"> </div> <p data-bbox="577 1543 979 1572">64 Concord Road, North Strathfield</p> <ul style="list-style-type: none"> The Department's heritage consultants recommended delisting an existing heritage item – House (I108) at 64 Concord Road, North Strathfield as it had been demolished for WestConnex works. The City of Canada Bay Council's submission supported the delisting of the heritage item. The Department recommends a post-exhibition change to the Canada Bay LEP to remove this item from the heritage schedule in response to Council's submission and that the house has been demolished. |

| Submission points | Response |
|-------------------|---|
| |  <p>Other Heritage comments–</p> <ul style="list-style-type: none"> • Some community submissions and Council submissions requested de-listing of various existing heritage items and heritage conservation areas. • The Department considers the various requests for de-listings not be progressed under this rezoning where there is a lack of detailed supporting evidence and heritage significance assessment reports and a need for further investigations. The relevant Council as the local authority is most appropriately placed to consider any requests for future de-listings. |

5.9 Environment (other)

| Submission points | Response |
|---|---|
| <ul style="list-style-type: none"> • Air Quality: Strathfield Council recommended re-consideration of the air quality impacts to sites within 100m of the Underwood Road Ventilation Facility. Air quality impacts were also raised in a few community submissions. | <ul style="list-style-type: none"> • In response to the submissions received, the Department proposes to elevate the consideration of air quality impacts from the Design Guide to the LEP. It is proposed to introduce an air quality impacts clause in the Strathfield LEP to reflect the recommendations of the Air Quality Impact Assessment (Mott MacDonald, 2024) that was exhibited with the Rezoning Proposal. The clause will apply to development within 100m of the WestConnex Underwood Road Ventilation Facility. • The intent of the clause is to require the preparation of a detailed air quality impact assessment for impacted sites that the consent authority is to consider before granting development consent. |

6 Post-Exhibition Amendments

In response to the issues raised by the community, landowners and other stakeholder's, further refinements to aspects of the plan and additional testing were conducted by the Department. This has resulted in several refinements to the Rezoning Proposal.

6.1 Environmental Planning Instrument Planning Framework

Sites contributing to additional housing supply

6.1.1 Bakehouse Quarter (1-11 George Street and 12, 14, 16 George Street, North Strathfield)

| Exhibited Controls | Post-exhibition amendments |
|--|---|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use - FSR: 2.5:1 - HOB: Varies, between 27m and 53m | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use and RE1 Public Recreation - FSR: 4.6:1 - HOB: Varies, between 44m to 150m |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 4% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space at the corner of George and Allen Streets. - Expansion of the Powells Creek corridor. - Pedestrian connection/bridge over Powells Creek to connect into Ismay Reserve. | |

6.1.2 Strathfield Triangle (2-4 Clarence Street; 32-42 Cooper Street; 1A, 10 Chapman Street; 13, 5-9, 11, 13-21 Chapman Street, 27 Cooper Street; 2-4, 8-10 Leicester Avenue, Strathfield)

| Exhibited Controls | Post-exhibition amendments |
|---|---|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: R4 High Density Residential - FSR: 3.6:1 - HOB: Varies, between 28m to 114m | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: No change - FSR: 4:1 - HOB: Varies, between 75m to 132m - Amendment to key site provisions to reflect land ownership |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space centrally located within the site in close proximity to Strathfield Station. - Delivery of new street connecting Cooper Street to Leicester Avenue and through site links. | |

6.1.3 The McDonald College (17 George Street, North Strathfield)

| Exhibited Controls | Post-exhibition amendments |
|--|--|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use. - FSR: 4:1 - HOB: Varies, between 23m and 103m | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: No change. - FSR: 5:1 - HOB: Varies, between 16m and 153m - New public open space to be delivered through key site provision. - GFA exemption for the provision of school uses and community facilities on site. |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space (relocated from neighbouring site Our Lady of Assumption Primary School), to provide improved access to North Strathfield metro station. - Improved pedestrian and cycle links to be provided from North Strathfield metro station to George Street. - Provision of new community centre facility. | |

6.1.4 Our Lady of Assumption Primary School (1A Hamilton Street East, North Strathfield)

| Exhibited Controls | Post-exhibition amendments |
|--|---|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use - FSR: 4:1 - HOB: Up to 23m - New public open space on the corner of George Street and Hamilton Street East to be delivered through key site provision. | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: No change - FSR: No change - HOB: 75m - Public open space removed from the site and relocated to the neighbouring site (McDonald College). |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% | |

6.1.5 10-16 Loftus Crescent; 5-7 & 11 Knight Street; 2 Subway Lane; 88-92 Parramatta Road, Homebush

| Exhibited Controls | Post-exhibition amendments |
|--|--|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: Part MU1 Mixed Use, part SP2 Infrastructure - FSR: 5:1 - HOB: Up to 103m - 7 & 11 Knight Street identified as potential heritage items. | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: No change - FSR: No change - HOB: Varies between 0m and 136m - Remove potential heritage items at 7 & 11 Knight Street. |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space/plaza near Homebush Station entrance. - Pedestrian through site link from Knight Street to Subway Lane (Loftus Lane extension). | |

6.1.6 19-21 Columbia Lane, Homebush

| Exhibited Controls | Post-exhibition amendments |
|---|---|
| <ul style="list-style-type: none"> • Site was not within the exhibited TOD rezoning boundary. • Existing planning controls: <ul style="list-style-type: none"> - Zone: SP2 Electrical Infrastructure - No identified FSR or height. | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use. - FSR: 5:1 - HOB: Up to 103m |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 5% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space that will connect into Powells Creek Park | |

6.1.7 Derowie and Kanoona Avenue (Various properties bound by Parramatta Road, Kanoona Avenue, Park Road and Hillcrest Avenue and 1-5 Derowie Avenue, Homebush)

| Exhibited Controls | Post-exhibition amendments |
|--|---|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: MU1 Mixed Use. - FSR: 3.6:1 - HOB: 75m | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: No change - FSR: Varies, between 3.6:1 to 4:1 - HOB: No change - Identification as a key site requiring amalgamation and delivery of new open space. |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of new public open space within high density residential area between Parramatta Road and M4. | |

6.1.8 Precinct-wide Amendments

Precinct-wide amendments are summarised in the table below and include a range of updates responding to further urban design refinement, infrastructure updates, Council input, land owner and public submissions. Refer to Section 9 for further detail regarding these post exhibition amendments.

| Exhibited Controls | Post-exhibition amendments |
|--|--|
| <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: Combination of R4 High Density Residential, MU1 Mixed Use, SP2 Infrastructure and SP2 Electrical Infrastructure. - FSR: Varies, between 1.2:1 and 6:1 - HOB: Varies, between 21m to 103m. | <ul style="list-style-type: none"> • Planning controls: <ul style="list-style-type: none"> - Zone: Combination of R4 High Density Residential, MU1 Mixed Use, SP2 Infrastructure and RE1 Public Recreation. - FSR: Varies, between 2:1 and 5:1 - HOB: Varies, between 28m to 153m |
| Public Benefits | |
| <ul style="list-style-type: none"> • Affordable Housing contribution: <ul style="list-style-type: none"> - Levy rate: 3% • Infrastructure to be delivered <ul style="list-style-type: none"> - Provision of a range of new public open spaces (including State Government delivery of new open space at North Strathfield), new street along Powells Creek linear park and through site links. | |

6.2 Design Guide

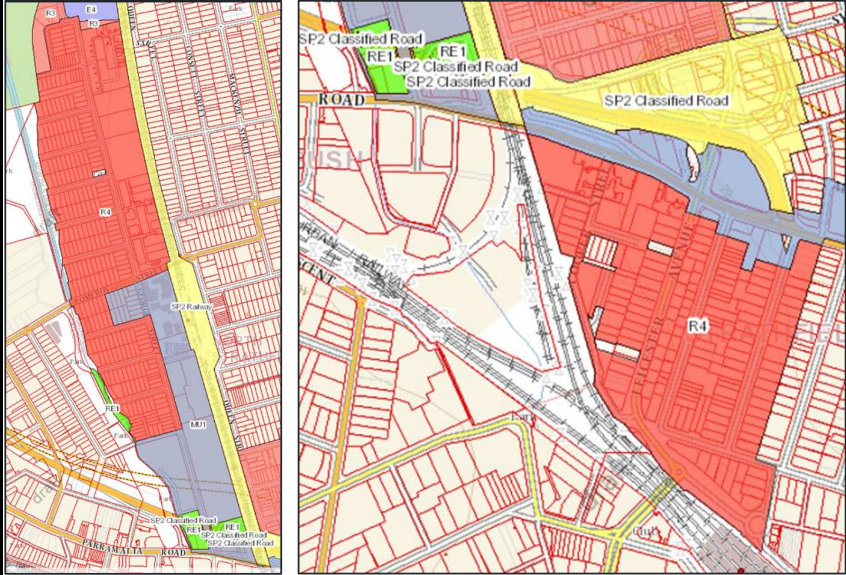
Based on landowner, agency and the Councils' feedback on development controls, the following new objectives, provisions and refinements have been added to the Design Guide post-exhibition:

- Amendment of the Design Guide structure
- Additional provisions around key sites identified to provide public benefits, and biodiversity
- Introduction of an indicative lot amalgamation strategy, setting out the intended location of consolidated development sites
- Clarification of car parking rate applications
- Refinement provisions related to tree canopy targets for apartments and built form.

7 Amendments to the Planning Framework

The following outlines the amendments to Canada Bay LEP 2013 and Strathfield LEP 2012 to give effect to the Precinct’s rezoning and provide development controls that support future development. These amendments will be given effect to through a self-repealing and amending SEPP.

7.1 Canada Bay LEP 2013

| Provision | Intended outcome |
|-----------------|--|
| Land use zoning |  <p data-bbox="480 1451 1011 1480">Figure 8: Proposed Canada Bay LEP Land Zoning Map</p> <p data-bbox="480 1503 679 1532">Rezone land from:</p> <ul data-bbox="523 1552 1321 1767" style="list-style-type: none"> <li data-bbox="523 1552 1321 1615">• R2 Low Density Residential and R3 Medium Density Residential to R4 High Density Residential <li data-bbox="523 1630 1321 1693">• E2 Commercial Centre, R2 Low Density Residential and R3 Medium Density Residential to MU1 Mixed Use <li data-bbox="523 1709 1321 1767">• SP2 Classified Road and E2 Commercial Centre to RE1 Public Recreation |

| Provision | Intended outcome |
|-----------|------------------|
|-----------|------------------|

Height of buildings (HOB)

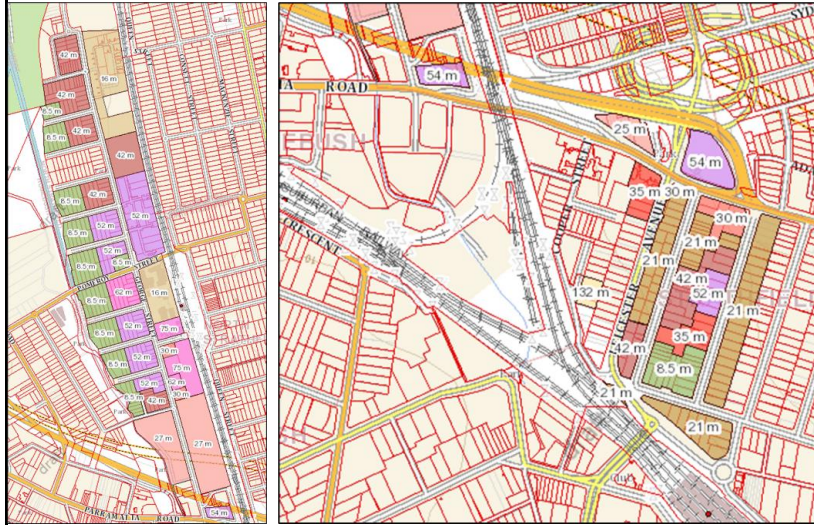


Figure 9: Proposed Canada Bay LEP HOB Map

Amend the HOB map to apply a maximum height ranging from 21m to 75m.

Floor space ratio (FSR)

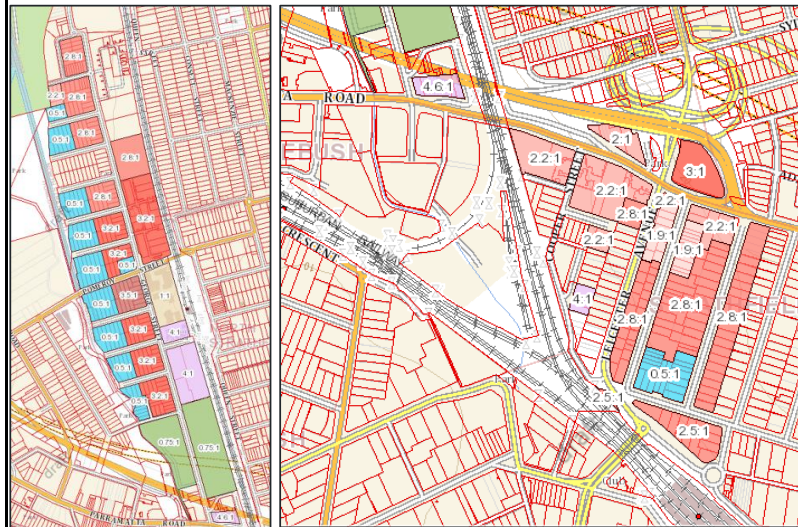


Figure 10: Proposed Canada Bay LEP FSR Map

Amend the FSR map to apply a maximum FSR ranging from 1.9:1 to 4:1.

| Provision | Intended outcome |
|-----------|------------------|
|-----------|------------------|

Key Sites Incentive Provisions

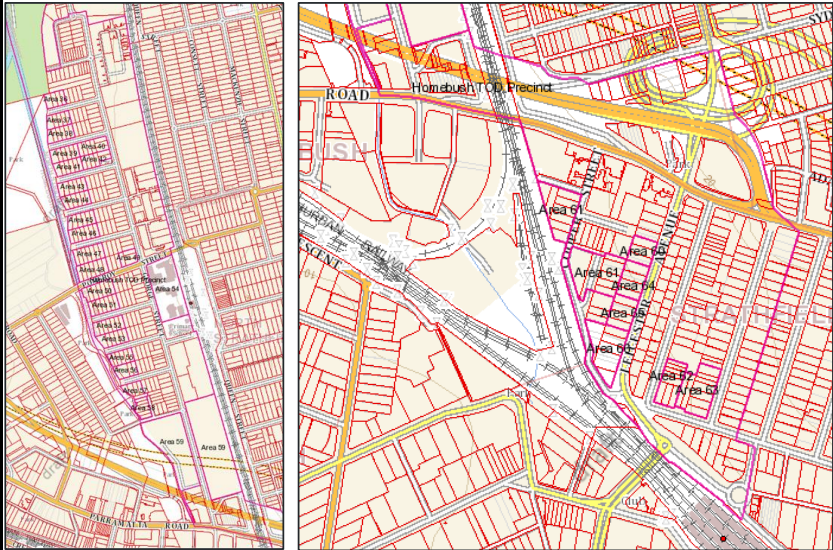


Figure 11: Proposed Canada Bay LEP Key Sites Map

Identify certain land in the Precinct on which development will need to deliver public benefits such as publicly accessible open space, roads, community facility as identified.

Incentive HOB

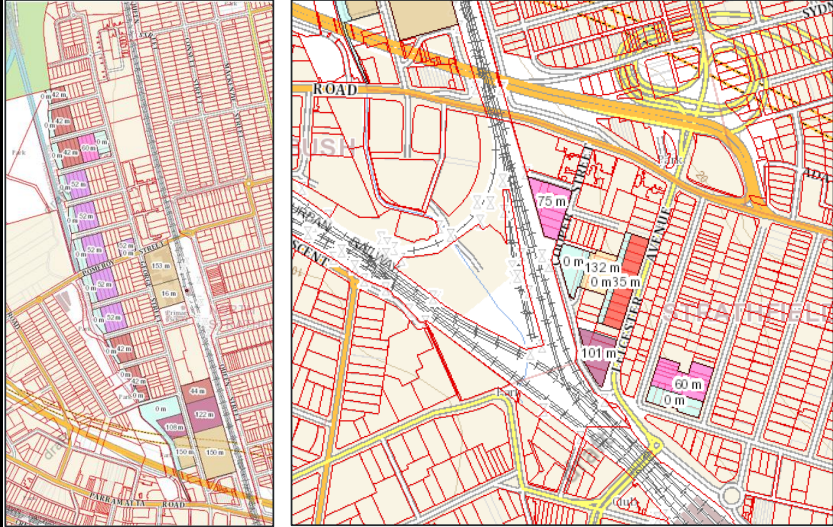
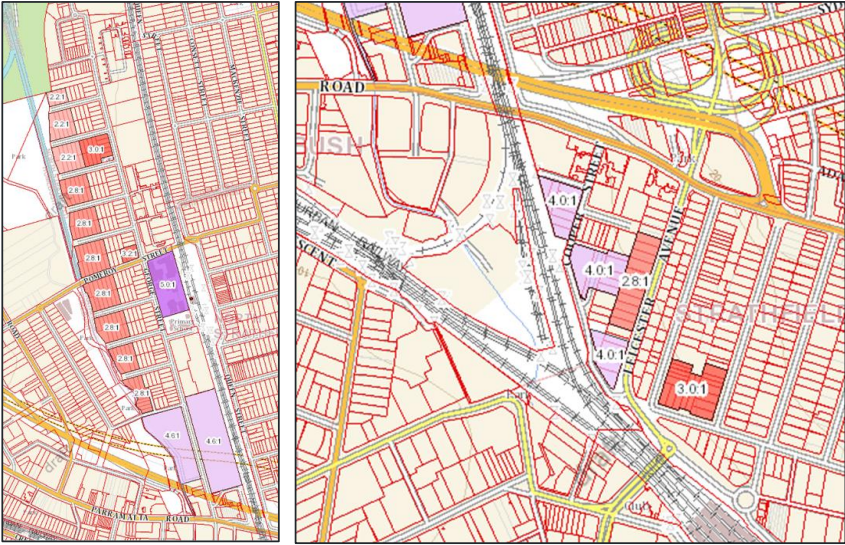
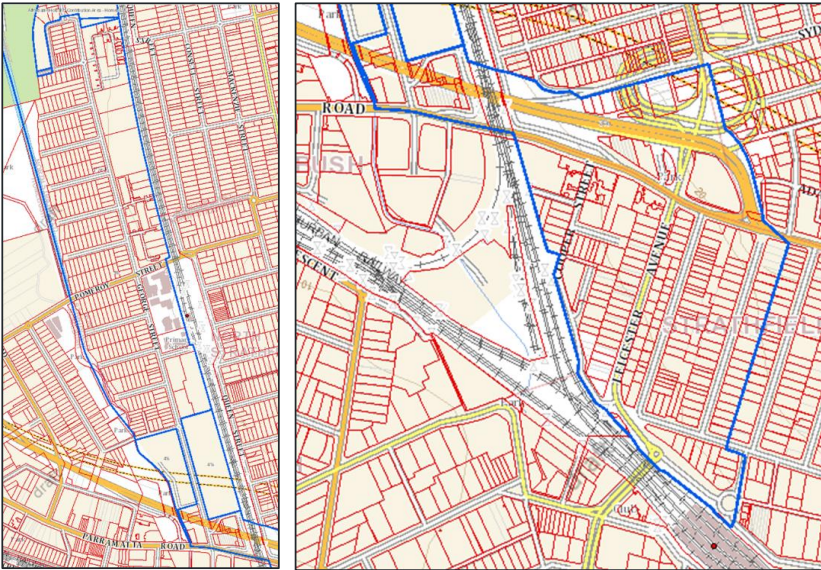
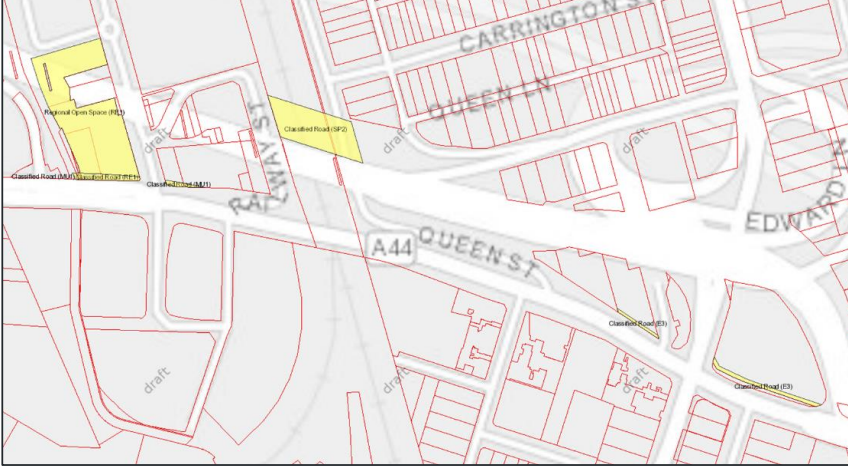
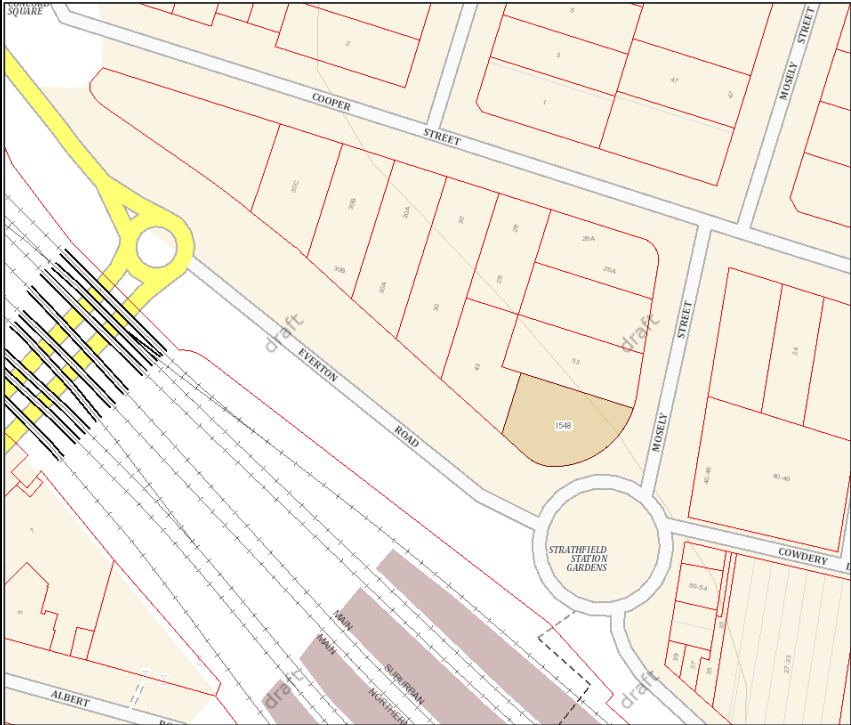


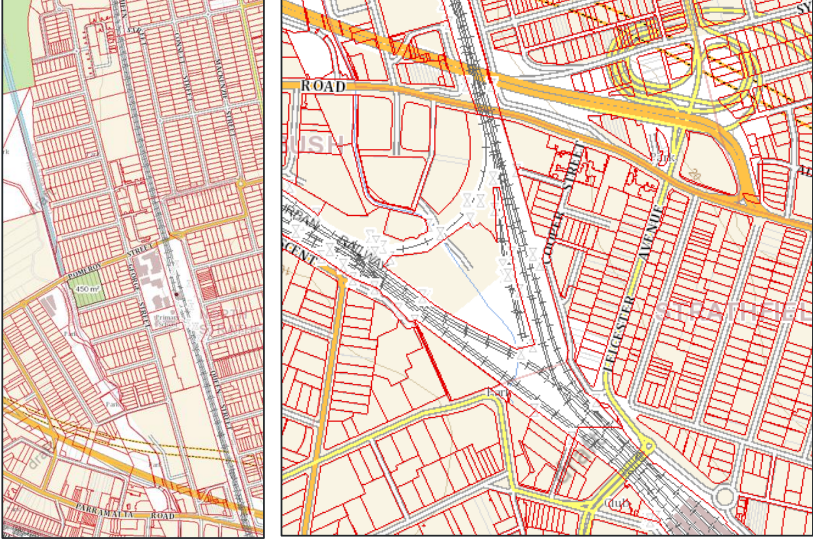
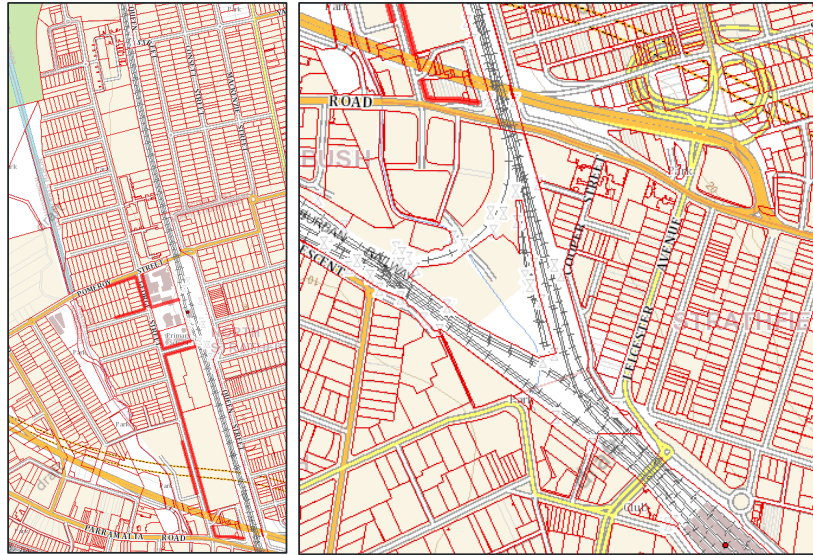
Figure 12: Proposed Canada Bay LEP Incentive HOB Map

Amend the incentive HOB map ranging from 0m to 153m.

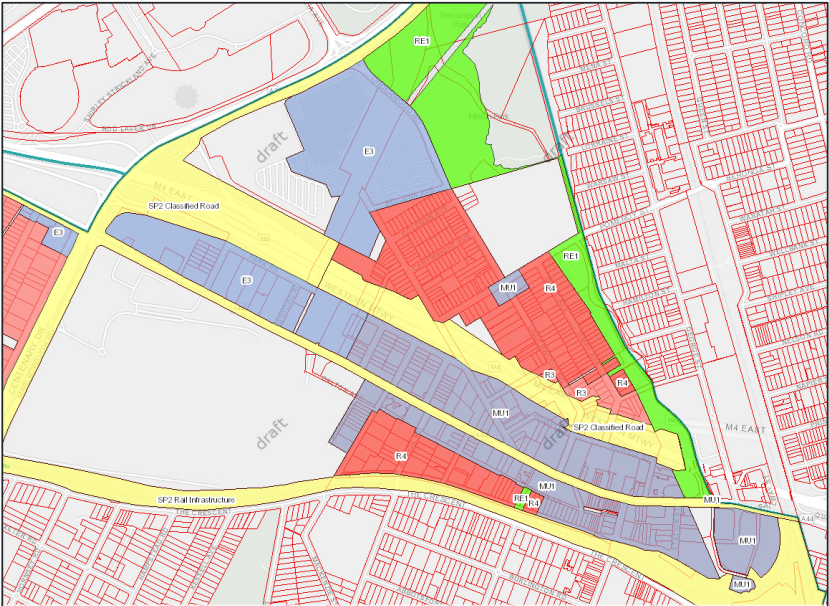
| Provision | Intended outcome |
|--------------------|--|
| Incentive FSR |  <p data-bbox="483 904 1034 936">Figure 13: Proposed Canada Bay LEP Incentive FSR Map</p> <p data-bbox="483 954 970 985">Amend the incentive FSR map from 1:9 to 5:1.</p> |
| Design excellence | <p data-bbox="483 1003 1284 1099">Introduce a provision that development consent cannot be granted in the Precinct unless the consent authority considers the development exhibits design excellence.</p> |
| Affordable housing |  <p data-bbox="483 1700 1270 1765">Figure 14: Proposed Canada Bay LEP Incentive Affordable Housing Contribution Scheme Map</p> <p data-bbox="483 1785 1321 1910">Amend the Affordable Housing Contribution Scheme Map to identify the Precinct as land on which affordable housing contributions are required. This supports a new affordable housing contributions provision in the Canada Bay LEP.</p> |

| Provision | Intended outcome |
|------------------------------|--|
| Land reservation acquisition |  <p data-bbox="483 831 1187 860">Figure 15: Proposed Canada Bay LEP Land Reservation Acquisition Map</p> <p data-bbox="483 887 1062 916">Amend the land reservation acquisition (LRA) map to:</p> <ul data-bbox="523 931 1326 1294" style="list-style-type: none"> • include certain land fronting Parramatta Road as 'classified road' for acquisition by TfNSW • include certain land around George Street and the M4 underpass as 'regional open space' for acquisition by the Planning Ministerial Corporation • Removal of TfNSW acquisition or part of, near the Bakehouse Quarter and where it overlaps with Open Spaces LRA • Removal of Council's local road acquisition on land between Cooper Street and Leicester Avenue, Strathfield as the local item being delivered through the Key Sites provision in Area 66 |

| Provision | Intended outcome |
|-----------|---|
| Heritage |  <p data-bbox="481 1088 986 1120">Figure 16: Proposed Canada Bay LEP Heritage Map</p> <p data-bbox="481 1137 1340 1234">Amend Schedule 5 Environmental Heritage and the associated Heritage Map to remove an existing item (I108) and introduce a new heritage item (41 Everton Road, Strathfield) as a local heritage item in the Canada Bay LEP.</p> |

| Provision | Intended outcome |
|---------------------------------------|--|
| Lot size |  <p data-bbox="483 909 975 936">Figure 17: Proposed Canada Bay LEP Lot Size Map</p> <p data-bbox="483 958 1310 1048">Amend the lot size map to update the minimum lot size requirements for the Precinct consistent with the zoning changes effected by the Rezoning Proposal.</p> |
| Active street frontages to be altered |  <p data-bbox="483 1641 1134 1668">Figure 18: Proposed Canada Bay LEP Active Street Frontages Map</p> <p data-bbox="483 1691 1265 1753">Amend the active street frontages map to expand the application of the existing clause 6.5 to parts of the Precinct.</p> |
| Design Guide | <p data-bbox="483 1821 1337 1910">Introduce a requirement that consent must not be granted to development within the Precinct unless the consent authority has considered the Homebush Precinct Design Guide.</p> |

7.2 Strathfield LEP 2012

| Provision | Intended outcome |
|-----------------|--|
| Land use zoning |  <p data-bbox="483 1160 1086 1189">Figure 19: Proposed Strathfield Land Use Zoning Map Extract</p> <p data-bbox="483 1211 679 1240">Rezone land from:</p> <ul data-bbox="523 1256 1246 1469" style="list-style-type: none"> • R3 Medium Density Residential to R4 High Density Residential • E1 Local Centre to MU1 Mixed Use • E4 General Industrial to E3 Productivity Report • R4 High Density Residential to MU1 Mixed Use • SP2 Infrastructure (Electricity Supply) to MU1 Mixed Use. |

Provision Intended outcome

HOB

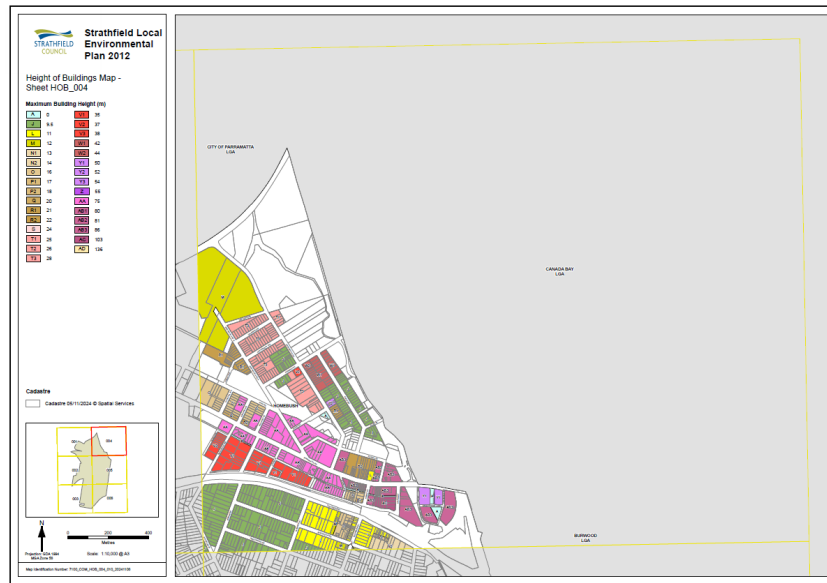


Figure 20: Proposed Strathfield LEP HOB Map

Amend the HOB map to apply a maximum height ranging from 0m to 103m.

FSR

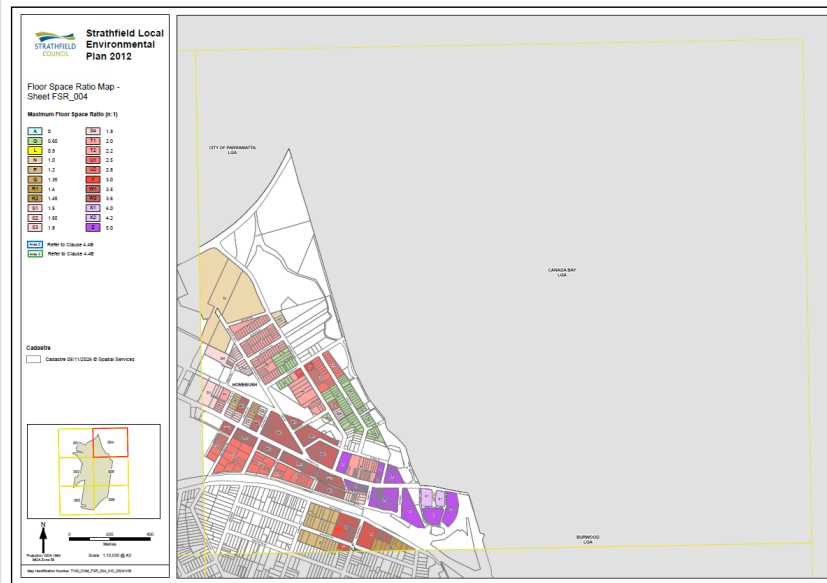


Figure 21: Proposed Strathfield LEP FSR Map

Amend the FSR map to apply a maximum FSR ranging from 1.9:1 to 5:1.

Provision Intended outcome

Key sites incentive provisions

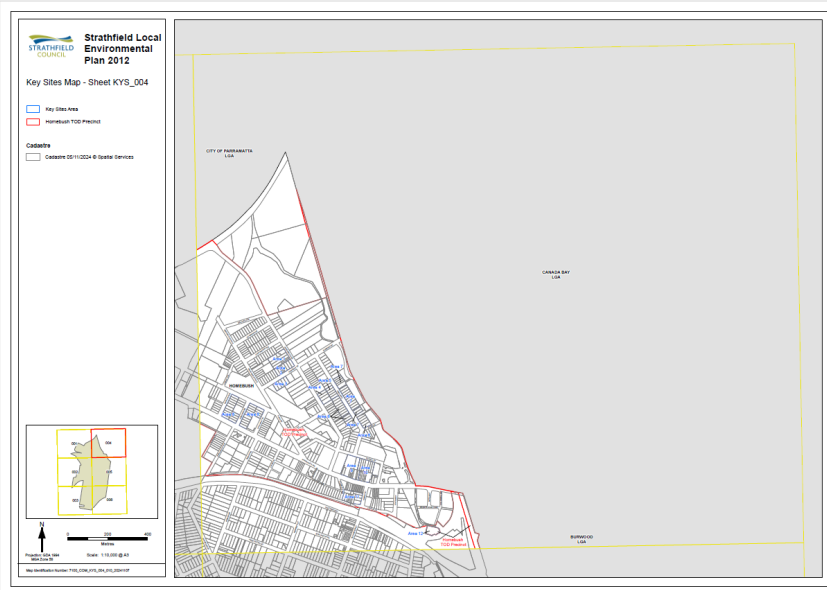


Figure 22: Proposed Strathfield LEP Key Sites Map

Identify certain land in the Precinct on which development will need to deliver public benefits such as publicly accessible open space, roads, community facility as identified. The Key Sites Map will also be amended to remove redundant references to areas as a result of the repeal of existing ss 4.3A and 4.4A in the LEP for the 'Parramatta Road Corridor'.

Incentive HOB

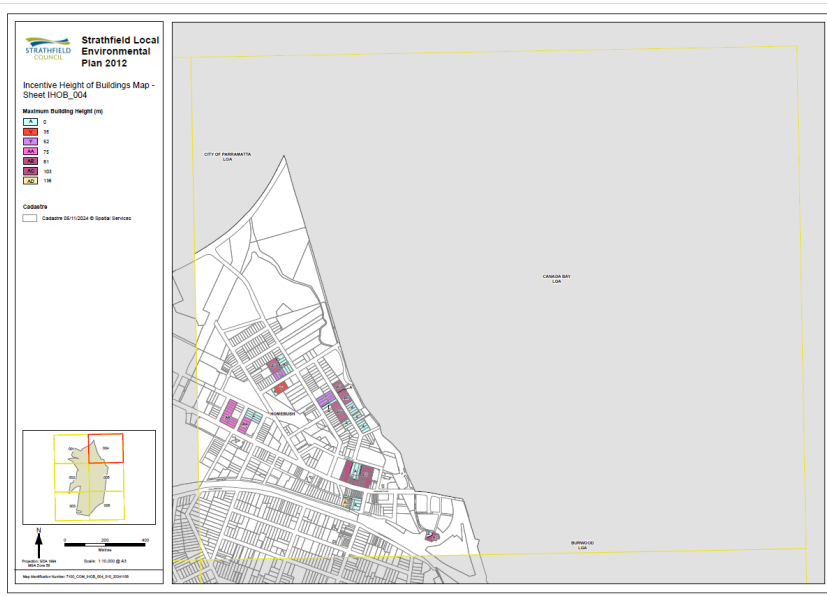
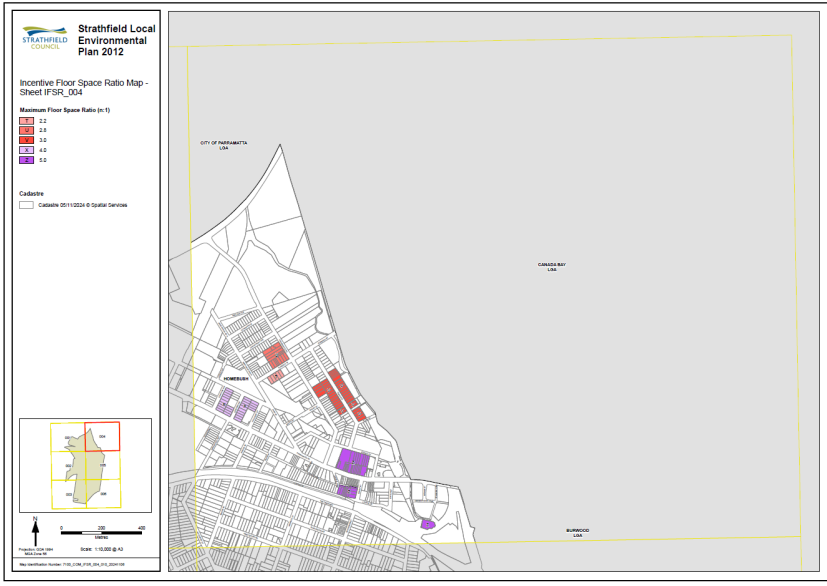


Figure 23: Proposed Strathfield LEP Incentive HOB Map

Introduce an incentive HOB map ranging from 0m to 136m.

| Provision | Intended outcome |
|-------------------|--|
| Incentive FSR |  <p>Figure 24: Proposed Strathfield LEP Incentive FSR Map</p> |
| Design excellence | Introduce an incentive FSR ranging from 2.2:1 to 5:1. Introduce a provision that development consent cannot be granted in the Precinct unless the consent authority considers the development exhibits design excellence. |

| Provision | Intended outcome |
|-----------|------------------|
|-----------|------------------|

Affordable housing

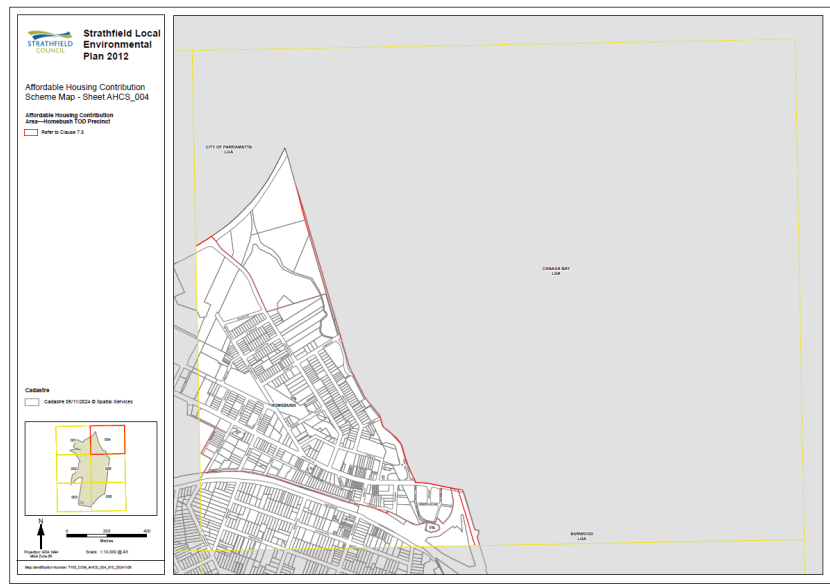


Figure 25: Proposed Strathfield LEP Incentive Affordable Housing Contribution Scheme Map

Introduce an Affordable Housing Contribution Scheme Map to identify the Precinct as land on which affordable housing contributions are required. This supports a new affordable housing contributions provision in the Strathfield LEP.

Land reservation acquisition

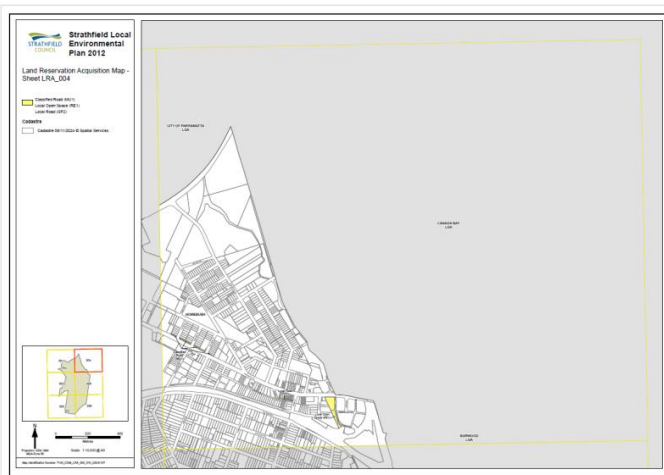


Figure 26: Proposed Strathfield LEP Land Reservation Acquisition Map

Parramatta Road Corridor TfNSW acquisition to facilitate road widening for additional bus lanes.

| Provision | Intended outcome |
|-----------|------------------|
|-----------|------------------|

Lot size

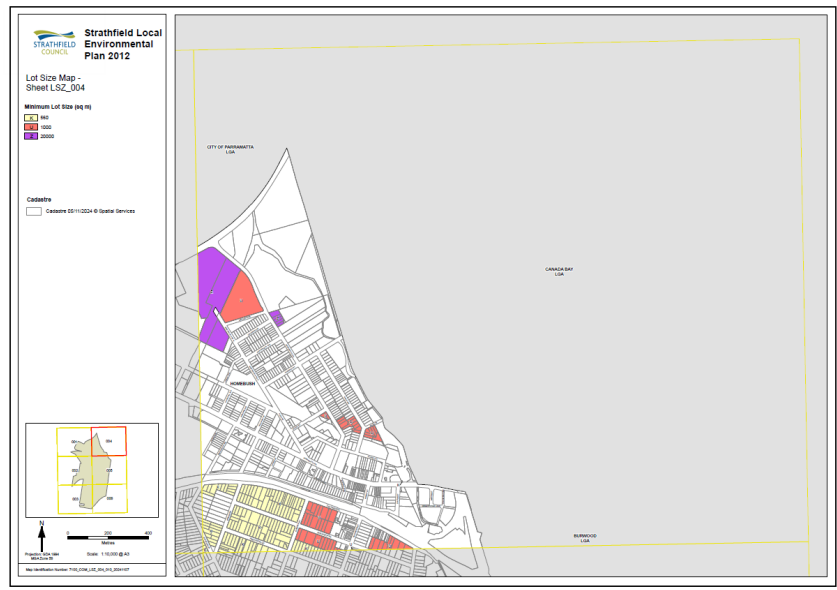


Figure 27: Proposed Strathfield LEP Lot Size Map

Amend the lot size map to update the minimum lot size requirements for the Precinct consistent with the zoning changes effected by the Rezoning Proposal.

Active street frontages

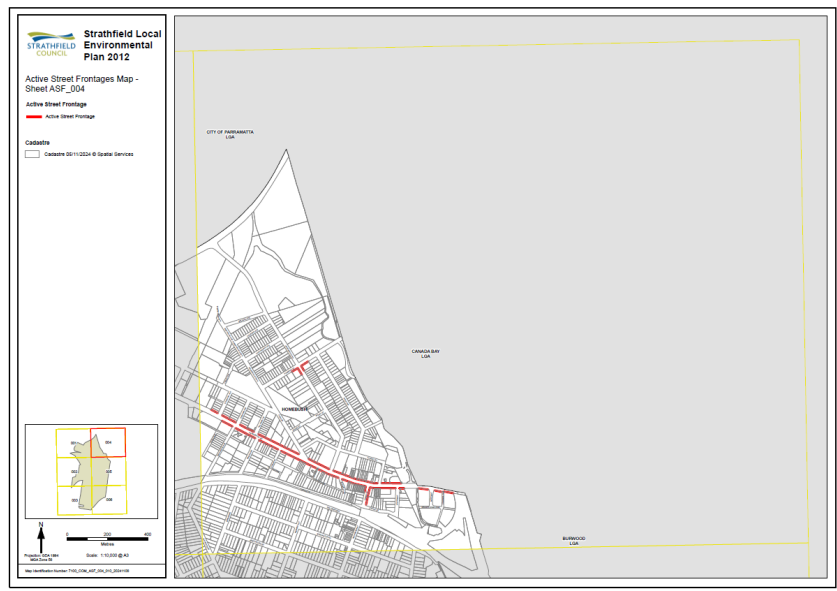


Figure 28: Proposed Strathfield LEP Active Street Frontages Map

Introduce an Active Street Frontages Map to identify the land in the Precinct to which the new active street frontages provision will apply.

| Provision | Intended outcome |
|---------------------------|---|
| Additional permitted uses | Amend Schedule 1 to allow retail premises as an additional permitted use for the Homebush Direct Factory Outlets at 1-5 Underwood Road, Homebush. |
| Design Guide | Introduce a requirement that consent must not be granted to development within the Precinct unless the consent authority has considered the Homebush Precinct Design Guide. |

Air quality

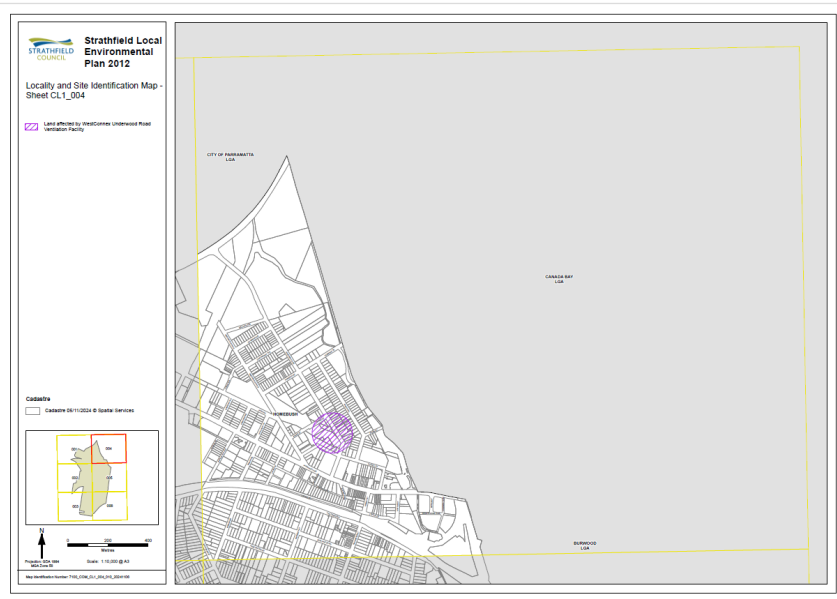


Figure 29: Proposed Locality and Site Identification Map

Introduce a Locality and Site Identification Map to identify land subject a new provision proposed to require certain development to provide a detailed air quality impact assessment and for the consent authority to consider this.

7.3 Consideration of State Policies and Plans

7.3.1 Housing SEPP

The Canada Bay LEP and Strathfield LEP will be amended to include a clause that will require all new residential development, including local and State Significant development applications, to contribute to the provision of affordable housing. Depending on the site, affordable housing contributions of 3 to 5 per cent, to be held in perpetuity and managed by a registered Community Housing Provider (CHP), are mandatory for all new residential development within the Precinct.

Therefore, no additional affordable housing incentives are available within the Homebush TOD Precinct, including the infill affordable housing floor space ratio and height of building bonuses under Chapter 2, Part 2, Division 1 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

7.3.2 Infrastructure contributions

Development in the Precinct will be required to pay a Housing and Productivity Contribution (HPC). This is a contribution levied on new residential, commercial and industrial development in HPC regions (Greater Sydney, Illawarra-Shoalhaven, Central Coast and Lower Hunter) which funds State and regional infrastructure.

The Government committed \$520m from the Housing and Productivity Fund to be spent on community infrastructure in the TOD Accelerated Precincts. This will provide upgrades to critical transport, and active transport infrastructure, as well as new and improved public open space.

Strathfield and Canada Bay Councils have adopted local infrastructure contribution plans to help fund new local infrastructure for already planned growth. The Department has collaborated with the Councils and shared the projected growth resulting from the Rezoning Proposal as well as the infrastructure projects required to support that growth and has been working with both Councils to prepare new local contributions plans to support the Homebush TOD.

Due to the extent of post exhibition changes that will impact on the local contributions plan works schedule, the draft local contributions plan will not be in place by the time the Rezoning Proposal is finalised.

The Department will continue to work with Strathfield and the City of Canada Bay Councils to update the draft Plans and it is expected that a local contributions plan for the Homebush TOD will be in place before the end of Quarter 1 2025.

Following finalisation of the Rezoning Proposal, Council's existing contributions plan will apply to development applications determined prior to the new contribution's plans coming into force.

7.3.3 Special Entertainment Precincts

A Special Entertainment Precinct (SEP) allows councils to set localised sound limits to encourage live performances, incentivise later trading for live performance venues and a mechanism to monitor and manage complaints through a precinct management plan.

Since the passing of the *24-Hour Economy Legislation Amendment (Vibrancy Reforms) Act 2023*, the Department has made changes to the Local Government Act 1993 that empowers councils to create a SEP by identifying the area in its local environment plan or by requesting the Minister for Planning and Public Spaces to identify a SEP in a State Environmental Planning Policy. This is part of the NSW Government's work to improve the precinct framework that allows councils to set requirements for amplified music and adopt their own plans to encourage more live music and performance venues.

The Office of the 24-Hour Economy (under Minister John Graham) has prepared guidelines to assist councils to establish a SEP and also has funding available.

SEPs can be made by a council anywhere within their LGA, regardless of whether the precinct is within or outside of a TOD Accelerated Precinct. The TOD Rezoning Proposals does prevent or facilitate a SEP being established.

In the draft Rezoning Proposal, the explanation of intended effect noted the Department will work closely with both the City of Canada Bay and Strathfield Councils to identify the areas within the TOD Accelerated Precinct to establish a SEP. The operation of any future SEP would commence once either council had adopted and published on their website a precinct plan of management which will regulate noise from amplified music from premises in the SEP.

It is noted that City of Canada Bay Council did not raise any comments regarding their intent to establish a SEP within the Precinct as part of their submission.

Strathfield Council has noted the Homebush TOD Accelerated Precinct could be designated as a SEP and seeks to work with the Department and Canada Bay Council to undertake further investigations regarding suitability of certain locations within the Precinct as a SEP.

The Department will continue to work with the City of Canada Bay and Strathfield Councils to have this in place in the LGAs in line with development occurring.

8 Conclusion

The Rezoning Proposal amends planning controls for the Homebush TOD Accelerated Precinct through a self-repealing SEPP under the EP&A Act. The SEPP will update the controls within the Canada Bay LEP 2013 and the Strathfield LEP 2012 to align with the objectives and controls of the Rezoning Proposal.

The Rezoning Proposal builds off the strategic planning framework for the Precinct as set by the PRCUTS, while accelerating housing delivery in Homebush.

The Department has undertaken a detailed assessment of the Rezoning Proposal and is satisfied the issues raised have been adequately addressed for rezoning purposes.


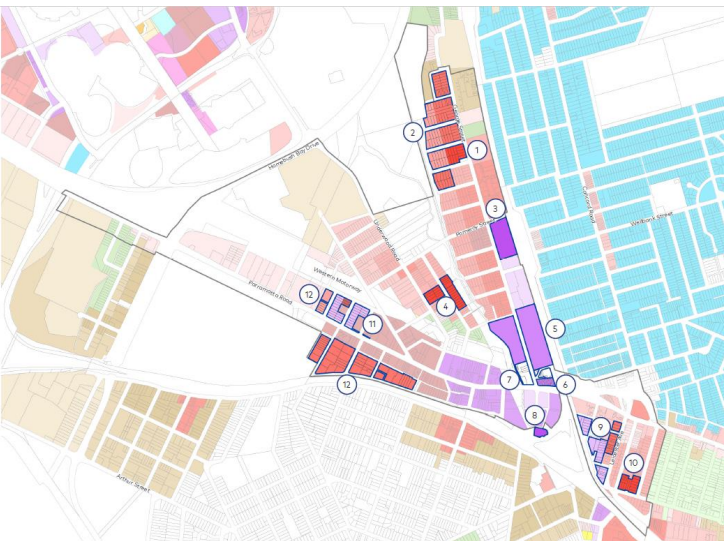
The Department's assessment has addressed the key issues raised, including traffic and transport, density and height, infrastructure provision, affordable housing, public open space and environmental impacts. The assessment has sought to balance the views contained in submissions from stakeholders, communities and councils. It is considered that the issues raised have been adequately addressed for the purposes of rezoning.

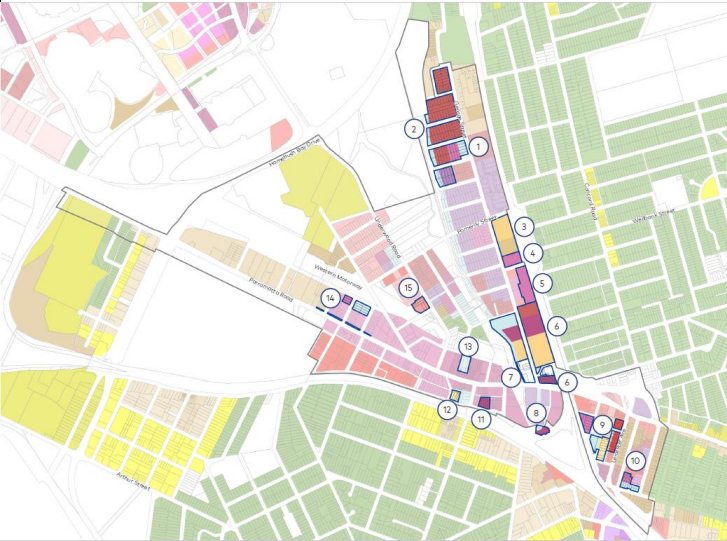
The Department recommends the rezoning of the Precinct to support the provision of approximately 18,000 new homes, capacity for 3,000 new jobs, new public open space, community infrastructure and critical transport connection improvements. The proposed residential uplift will also facilitate the delivery of 3% affordable housing provided in perpetuity with 4% required on the Bakehouse Quarter site and 5% required on 19-21 Columbia Lane, Homebush.

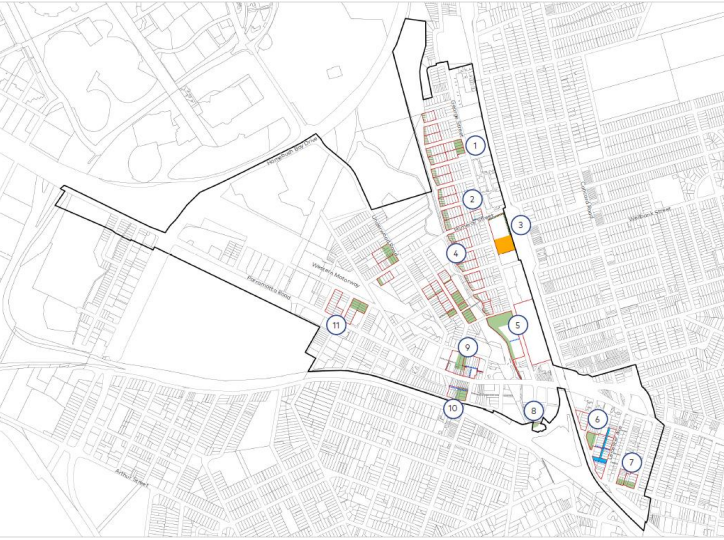
The rezoning includes robust amendments to planning controls and design guidance, which will enable appropriate consideration of issues through subsequent stages of the planning process.

The assessment undertaken as part of this Finalisation Report has demonstrated that the proposed planning controls for the Homebush TOD Accelerated Precinct appropriately respond to the opportunities and constraints of the Precinct.

9 Precinct Wide Amendments

| Provision | Post Exhibition changes |
|---|---|
| <p>Land use zoning:</p> <ol style="list-style-type: none"> 1. Rezone to MU1 Mixed Use 2. Rezone to SP2 Infrastructure Classified Road (part of Westconnect land) 3. Rezone to RE1 Public Recreation 4. Inclusion of 19-21 Columbia Lane Site zone as MU1 Mixed Use 5. Rezone to SP2 |  <p>Figure 30: Land Use Zone Post Exhibition Amendments</p> |
| <p>Floor Space Ratio:</p> <ol style="list-style-type: none"> 1. FSR increase from 2.8:1 to 3:1 with increase of open space 2. FSR increase from 1.8:1 and 2.2:1 to 2.2:1 and 2.8:1 3. FSR increase from 4:1 to 5:1 with increase of open space 4. FSR increase from 2.8:1 to 3:1 for the provision of open space 5. FSR increase from 2.5:1 to 4.6:1 with decrease in site area 6. FSR decrease from 6:1 to 4.6:1 with decrease in open space delivery 7. No FSR for acquired public recreation 8. FSR of 5:1 for additional site 9. FSR increase from 2.2:1 and 3.6:1 to 2.8:1 and 4:1 for the provision of open space and road network 10. FSR increase from 2.8:1 to 3:1 with increase of open space |  <p>Figure 31: Floor Space Ratio Post Exhibition Amendments</p> |

| Provision | Post Exhibition changes |
|--|---|
| <p>11. FSR increase from 3.6:1 to 4:1 with reconfigured open space location</p> <p>12. FSR increase from 1.2:1 and 2.2:1 to 2:1 and 2.5:1</p> | |
| <p>Height of Building:</p> <p>1. HOB increase from 42m to 60m with increase of open space</p> <p>2. HOB increase from 28m and 42m to 42m and 52m</p> <p>3. HOB increase from 23m-103m to 16m-153m with increase of open space</p> <p>4. HOB of 75m on previously open space</p> <p>5. HOB increase from 21m to 75m</p> <p>6. HOB amended from 27m-103m to 44m-150m</p> <p>7. No HOB for acquired public recreation</p> <p>8. HOB 103 for additional site</p> <p>9. HOB increase from 28m-114m to 35m-132m</p> <p>10. HOB increase from 42m to 60m with increase of open space</p> <p>11. HOB increase from 86m to 103m</p> <p>12. HOB increase from 103m to 136m with increase of open space</p> <p>13. Reconfigured open space</p> <p>14. Reconfigure open space</p> <p>15. HOB increase from 21m to 28m</p> <p>Note: HOB 0m for open space, road network, and through site links</p> |  <p>Figure 32: Height of Building Post Exhibition Amendments</p> |

| Provision | Post Exhibition changes |
|--|---|
| <p>Key Site Amalgamation:</p> <ol style="list-style-type: none"> 1. Increase in open space 2. Provision of road network expansion 3. Provision of open space and shared-path 4. Provision of open space and street 5. Open space configuration, through site link and change to ownership site 6. Provision of road network and through site link 7. Increase in open space 8. Open space on additional site 9. Increase in open space with through site link 10. Open space configuration and through site links 11. Open space location and configuration <ul style="list-style-type: none"> • Addition of through site links • Addition of desired through site links • Addition of community facility • Addition of shared-path • Deletion of heritage items as key sites |  <p>The map shows a detailed urban layout with various colored overlays and numbered callouts (1-11) indicating specific areas of interest or amendments. The map includes street grids, open spaces, and other urban features. The numbered areas correspond to the provisions listed in the adjacent column.</p> <p>Figure 33: Key Site Amalgamation Post Exhibition Amendments</p> |

The Hon Paul Scully MP
Minister for Planning and Public Spaces



Ref: IRF24/2360

Cr Michael Megna
Mayor
City of Canada Bay Council
Locked Bag 1470
Drummoyne NSW 1470
michael.megna@canadabay.nsw.gov.au
council@canadabay.nsw.gov.au

Dear Mayor

Thank you for the City of Canada Bay's continued involvement in planning for the Homebush precinct as part of the Transport Oriented Development (TOD) Program.

I am writing to inform you the *State Environmental Planning Policy Amendment (Homebush Transport Oriented Development Precinct) 2024* (SEPP) has been made under section 3.29 of the *Environmental Planning and Assessment Act 1979*.

The SEPP amends planning controls for sections of Homebush near the Metro line and stations to enable the delivery of much needed additional housing. The SEPP will shortly be published on the NSW Legislation website. The planning controls adopted by the SEPP seek to optimise the potential for additional homes near these key public transport hubs, while delivering homes and precincts that of high quality and high amenity.

Key aspects of the final rezoning include:

- capacity for up to 18,000 additional homes within the precinct close to train stations and the North Strathfield and Sydney Olympic Park Metro stations
- 3% affordable housing contribution for all new private residential developments and higher rates for the following:
 - 4% for the Bakehouse Quarter Site, and
 - 5% for 19-21 Columbia Lane, Homebush
- 3,000 new jobs
- new and improved public open spaces through incentive planning controls
- supporting social infrastructure including a 3,000sqm multipurpose community facility and library
- a new cycle and pedestrian network, partly through incentive planning controls.

A report outlining the Department of Planning, Housing and Infrastructure's assessment and recommendations has been published on the Department's website with supporting technical advice.

The NSW Government has committed \$520 million in the TOD Accelerated Precincts to provide active transport links and good quality public open spaces. The Government will continue to work with Council on the delivery of this funding for the Homebush Precinct ahead of development occurring.

I understand that Council has had some initial conversations with the Department regarding the delivery of new public open spaces in the Precinct.

I would like to acknowledge and thank Council for their valuable contributions and collaboration with the Department of Planning, Housing and Infrastructure.

Should you have any enquiries about this matter, please contact Anthea Sargeant, Executive Director - State Rezoning, at the Department at anthea.sargeant@planning.nsw.gov.au.

Yours sincerely



Paul Scully MP
Minister for Planning and Public Spaces

27/11/24



TRAFFIC COMMITTEE

14 November 2024

Via Email

MINUTES

Committee Members:

| | |
|-------------------------|----------------------------|
| Mr. Michael Megna | Chair |
| Sergeant S Tohme | NSW Police |
| Mr. Andy Huynh | Transport for NSW |
| Ms. Stephanie Di Pasqua | Local Member of Parliament |

Advisory Members:

| | |
|-----------------|---|
| Mr. R Ristevski | CCB Council |
| Mr. H Huynh | CCB Council |
| Mr. L Huang | CCB Council |
| Ms. S Tran | CCB Council |
| Mr. M Dizon | CCB Council |
| Ms. M Saini | CCB Council |
| Ms. A Tianias | CCB Council |
| Mr. J Stephens | CCB Council |
| Mr. A Prichard | State Transit Authority, Sydney Buses |
| Mr. A Clarke | Access Committee |
| Mr. D Martin | BayBUG – Canada Bay Bicycle Users Group |
| Mr. B Cantor | Busways |

Minute Taker: Ms. C Di Natale CCB Council

**APOLOGIES**

Nil

DECLARATIONS OF PECUNIARY INTEREST

Nil

CONFIRMATION OF MINUTES

Traffic Committee Meeting – 24 October 2024

COMMITTEE RECOMMENDATION

THAT the minutes of the Traffic Committee Meeting of 24 October 2024 be confirmed.

INDEX**Traffic Committee Meeting
14 November 2024**

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| ITEM 2 | HARRIS ROAD AT KINGS PARK ROAD, FIVE DOCK – “NO STOPPING” SIGN..... | 13 |

**ITEM 1 HALLIDAY PARK, FIVE DOCK – CAROLS IN THE
 PARK****Department City Assets****Author Initials: LH**

REPORT

The Carols in the Park event is due to be held on Wednesday 18 December 2024. The event is a yearly community event with Christmas carols and a community choir. The event will also have various food stalls in the park.

The Carols will run between the hours of 5pm to 9:30pm, with bump in for the event to commence at 3pm. Accordingly the event organisers have requested that from 3pm to 11pm McGrath Avenue be closed between Kerin Avenue and Hill Street, along with the cul-de-sac end section of Wymston Parade to the south of Hill Street.

There will be no event activities on the roadway. Proposed road closures are intended to reduce traffic congestion and create a greater separation between vehicles movements and pedestrian flows to/from the event. A temporary carpark will be provided in a section of Halliday Park with access to be managed by Traffic Controllers.

This event is considered to be Class 2 in accordance with TfNSW guidelines. A copy of the Traffic Management Plan (TMP) is attached.

STAFF RECOMMENDATION

THAT the Traffic Management Plan for Carols in the Park, including the temporary closure of McGrath Avenue between Kerin Avenue and Hill Street from 3pm to 11pm on Wednesday, 18 December 2023, be approved subject to the following.

1. The roadway be closed in accordance with the submitted Traffic Guidance Scheme (TGS) and must be installed in accordance with the TfNSW Guidelines for Traffic Control at Work Sites and the relevant Australian Standards.
2. The applicant is to contact Local Police, Fire Brigade and Ambulance Services to inform them of the proposed closure shortly before it is implemented and provide them with the TGS.
3. Surrounding residents and/or businesses be notified by the applicant.
4. Approval from Transport for NSW.

DISCUSSION

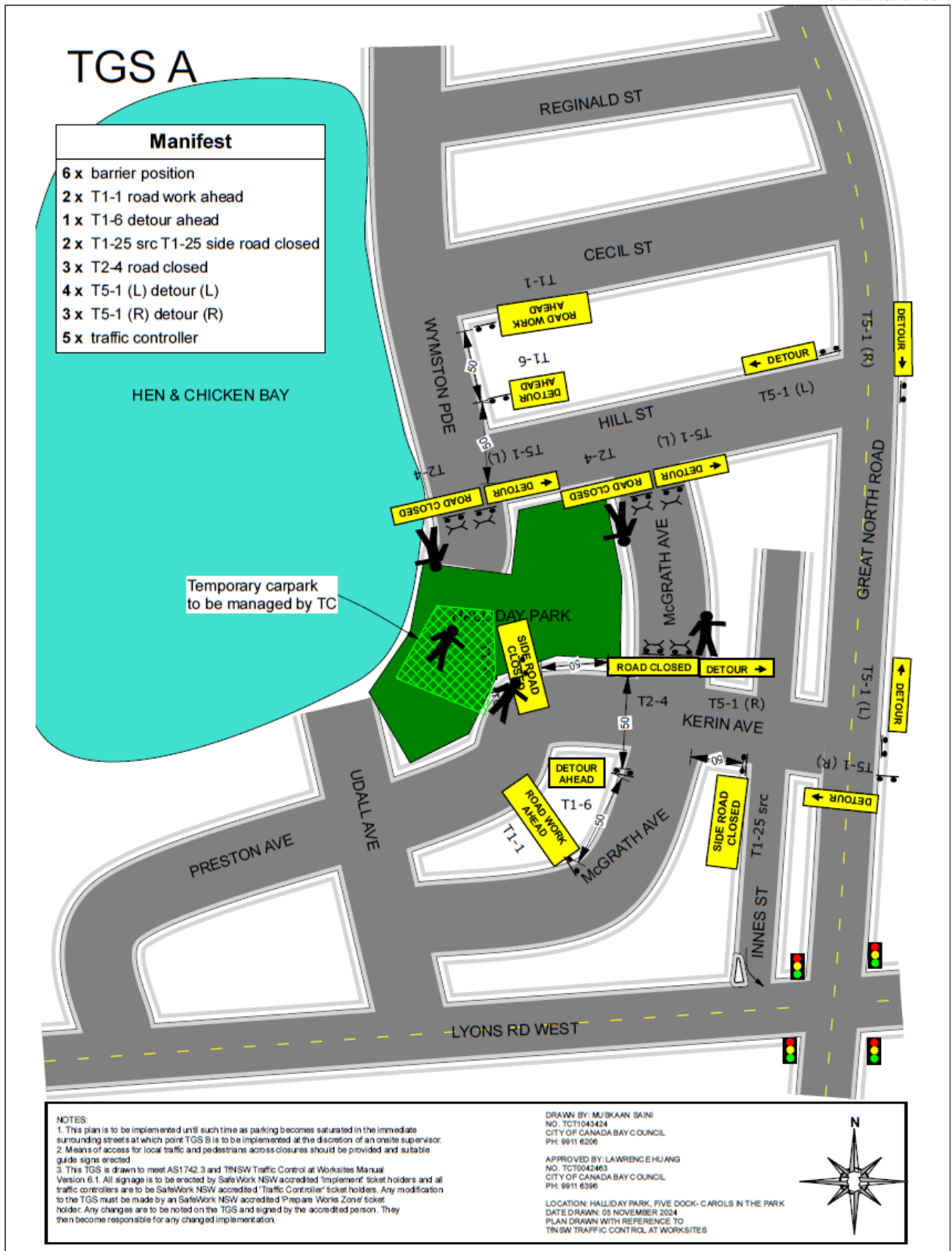
TfNSW Representative advised that current and recurring events with minor impacts to the transport network can be reclassified to 'Class 3' Event.

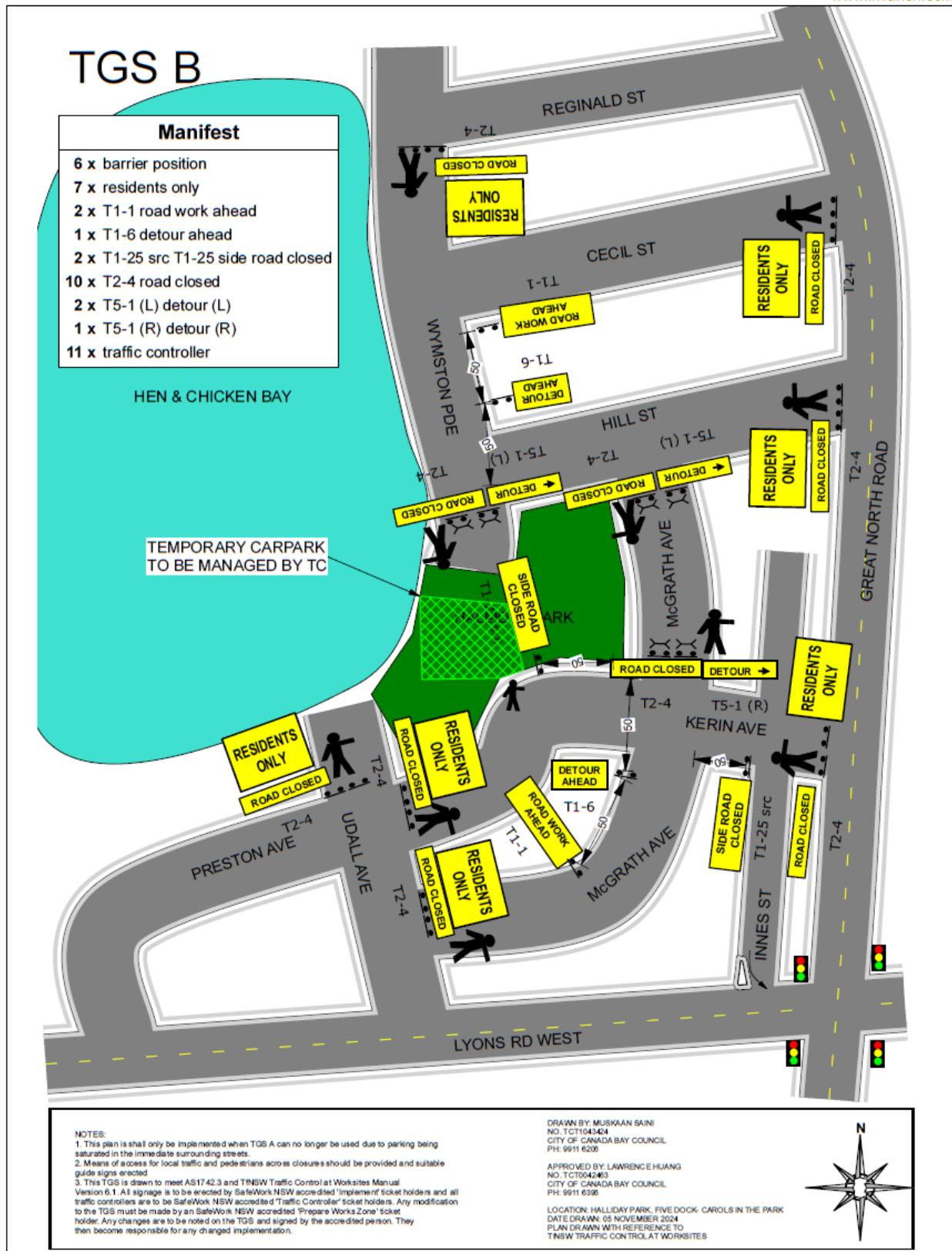
COMMITTEE RECOMMENDATION

1. THAT 'TGS A' Traffic Management Plan for Carols in the Park be implemented from 3pm, Wednesday 18 December 2023, be approved.
2. THAT 'TGS B' Traffic Management Plan, including the temporary closure of McGrath Avenue between Kerin Avenue and Hill Street, be implemented between 3pm to 11pm on Wednesday 18 December 2023, where required.
3. That the event is categorised as a 'Class 3' Event.

Attachments:

1. Traffic Management Plan (under separate cover)







TRAFFIC MANAGEMENT PLAN

FOR

CAROLS IN THE PARK - HALLIDAY PARK

Wednesday 18th December 2023

| | |
|-------------------------|--|
| Location: | Halliday Park, Five Dock |
| Date and Time: | 18 th December 2024 between 3pm to 11pm |
| Event Organiser: | Communities for Communities in association with the City of Canada Bay |
| TMP Version: | 1 |
| Revision Date: | 05 November 2024 |
| Document Author: | Lawrence Huang Traffic Engineer |

1.0 Contact Names:

| | |
|---------------------|--|
| Event Co-ordinator: | Sharena Fernandes Communities for Communities Mobile: 0419 238 020 |
| NSW Police: | Senior Constable Germaine Grant Burwood Traffic Region Belmore Street, Burwood Telephone: 9745 8463 |
| Transport for NSW: | Andy Huynh Network & Safety Officer Telephone: 9595 4210 |

2.0 Situation Analysis:

Communities for Communities in conjunction with the City of Canada Bay are proposing to hold their annual "Carols in the Park" on Wednesday the 18th December, 2024 between 3pm to 11pm. It is proposed that there will be community Christmas Carols and a community choir. There will be a stage for a number of events as well as several of food stalls.

3.0 Mission:

The objectives of the Traffic Management Plan are to provide suitable traffic management elements to allow the holding of the event, to allow all key agencies to be aware of the event and to obtain approval for the road closures and detours.

4.0 Execution**4.1 Description**

The proposal is for the temporary closure of McGrath Avenue between Hill Street and Kerin Avenue along with the cul-de-sac end section of Wymston Parade to the south of Hill Street.

A temporary carpark within Halliday Park with access managed from Preston Avenue. Staff manning this carpark will close the carpark once capacity has been reached.

There will be no event activities on the roadway. The proposed road closures are intended to reduce traffic congestion and create a greater separation between vehicles movements and pedestrian flows to/from the event.

The road closures will be required between 3pm to 11pm. This is to allow set-up and removal of the stalls and stage for the event.

4.2 Detours for the Event

Southbound Vehicles on Wymston Parade:

Through traffic entering Hill Street from Wymston parade and wishing to use McGrath Avenue will be diverted along Hill Street to turn right onto Great North Road.

Northbound Vehicles on Preston Avenue and McGrath Avenue

Through traffic wishing to use McGrath Avenue will be diverted along Kerin Avenue to turn left into Great North Road. From there they will be able to turn left into Hill Street.

4.3 Physical Survey of Route:

The roads do not form part of any bus routes and so buses will not be affected by the closures.

Emergency vehicles, Heavy Vehicles and Cyclists will be diverted as in section 4.2. There will be a command point at Halliday Park as a contact for all emergency services.

The residents of McGrath Avenue will need to be given adequate notice of the proposed road closure. There are no churches or sporting ovals affected by the road closures, which can not be catered for by the detours.

4.4 Traffic Guidance Scheme: (As per attached TGSs).

The plan of the traffic management elements is attached. 'Traffic Guidance Scheme A' shall be implemented initially until surrounding streets are saturated with parked cars and then 'Traffic Guidance Scheme B' shall be implemented.

Traffic controls will be established, maintained and dismantled by accredited traffic controllers at the following locations.

The intersection of McGrath Avenue and Kerin Avenue
The intersection of McGrath Avenue and Hill Street
The intersection of Hill Street and Wymston Parade

The Traffic Controllers will be identified by safety vests and will be equipped with radios to keep in contact with the command station within the street fair precinct.

Advance warning signs, will be erected 1-2 weeks before the event which state:

"McGrath Ave closed
Between Kerin Ave & Hill St
For special event
On 13/12/2023

From 3pm - 11pm"

These signs will be placed at the following intersections:

Lyons Road West and Preston Avenue
Great North Road and Hill Street (Southbound Traffic)
Great North Road and Kerin Avenue (Northbound Traffic)
McGrath Avenue and Kerin Avenue
McGrath Avenue and Hill Street

Detour and directional signs will be placed at all key intersections (as shown on plan) to ensure traffic is guided around the event in an efficient and orderly manner.

5.0 Contingency Plan:

As each street around the perimeter of the road closure is saturated with parked cars, partial road closures (residents excepted) as per 'TGS B' will be progressively installed to discourage motorists from entering the streets. Each closure shall be manned by a suitably accredited traffic controller. Detours installed as per 'TGS A' shall be removed or relocated as required when partial road closures are implemented. Partial road closures are to be implemented at the discretion of a suitably qualified onsite supervisor.

If problems develop with the traffic detours (accidents, etc) there are a number of alternative routes that are available to Council to detour the vehicular traffic around the event. These will be utilised to reduce the potential for traffic build up in the area, if incidents occur.

6.0 Special event Clearways:

Not required for this event

7.0 Advertising:

Council will be advertising the "Carols in the Park" event through all the local news media. The advertising will include notifications of the road closures and the detours in place for the day.

8.0 Public Safety:

8.1 Crowd, Duration and Security:

Crowd numbers are estimated at 5,000 people.

The road closures are required for 8 hours however the "Carols in the Park" event will be for a duration of 4.5 hours between the hours of 5pm to 9:30pm.

8.2 Toilets and Waste Management:

The event organiser is providing portable toilets (portaloos) and Council will be supplying waste bins for the event.

8.3 Parking:

It is expected that the majority of the attendees will be from surrounding streets and will walk to the event. Some increased parking demand is anticipated in the surrounding residential streets. A temporary parking

Council's Parking Patrol Officers will undertake regular patrols to ensure that motorists are parking legally and that minimal disruptions are occurring around the event.

8.4 Risk Mitigation:

A separate risk assessment is to be undertaken by event organisers in consultation with the Police and mitigation measures introduced accordingly.

9.0 Contact List for the day of the Event:

Eddie Mytkowski
Communities for Communities
Mobile: 0414 378 300

Mr Glen Mannix
CCBC Acting Coordinator, Facilities Management
Mobile: 0418 447 136

**ITEM 2 HARRIS ROAD AT KINGS PARK ROAD, FIVE
DOCK – “NO STOPPING” SIGN****Department City Assets****Author Initials: JS**

REPORT

Council received a request from a local resident for the installation of a ‘No Stopping’ sign in Harris Road at the intersection of Kings Park Road.

The resident advised that she had received a fine for parking within 10m of the intersection although she thought she had parked legally. The resident had also observed many ‘No Stopping’ signs in Harris Road and surrounding streets, including Kings Park Road at Harris Road.

The intersection was recently inspected and ‘No Stopping’ signs were noted in Kings Park Road and Garfield Street at Harris Road. There were also No ‘Stopping’ signs in Harris Road north of Kings Park Road and Garfield Street associated with the new raised marked pedestrian crossing, including a ‘No Stopping’ sign south of Garfield Street associated with the installation of the new resident parking signposting.

Consequently, there would be merit with installing a ‘No Stopping’ signpost on the western side of Harris Road, 10m south of Kings Park Road to supplement the existing ‘No Stopping’ signposting at the intersection of Harris Road / Kings Park Road / Garfield Street. This would still retain two unrestricted parking spaces between the existing ‘Bus Zone’ and Kings Park Road and assist in maintaining clear sightlines at the intersection.

Therefore, it is proposed to install a ‘No Stopping’ (arrow right) sign and post on the western side of Harris Road, 10m south of Kings Park Road.

STAFF RECOMMENDATION

THAT a ‘No Stopping’ (arrow right) sign and post be installed on the western side of Harris Road, 10m south of Kings Park Road.

DISCUSSION

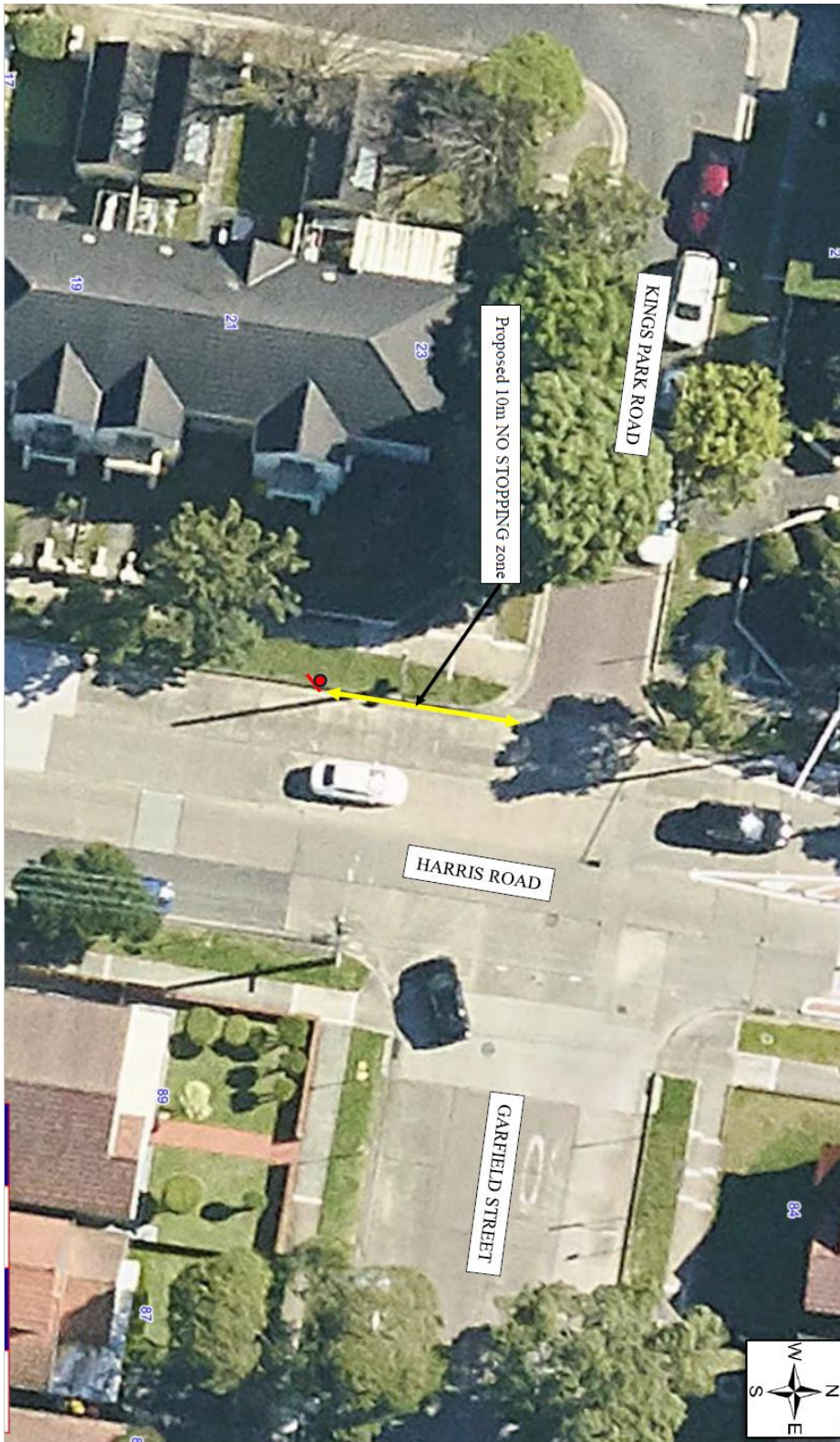
Item is in order.

COMMITTEE RECOMMENDATION

That a ‘No Stopping’ (arrow right) sign and post be installed on the western side of Harris Road, 10m south of Kings Park Road.

Attachment:

1. Harris Road 'No Stopping'





lindsaytaylorlawyers
planning • environment • local government

**Rhodes West Station Precinct – Marquet & Walker
Streets Planning Agreement
Fourth Deed of Variation**

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

City of Canada Bay Council

Walker Street Development Pty Limited

Bay Tower Pty Limited

Twenty Three Marquet Street Pty Limited

Twenty One Marquet Street Pty Limited

Twelve Walker Street Pty Limited

Thirty Four Walker Street Pty Ltd

Date:

3448-6013-6731v3

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement
Fourth Deed of Variation**

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement
Fourth Deed of Variation**

Summary Sheet

Council:

Name: City of Canada Bay Council
Address: 1a Marlborough Street, Drummoyne
Telephone: (02) 9911 6400
Facsimile: (02) 9911 6550
Email: council@canadabay.nsw.gov.au
Representative: Director- City Services and Assets

Developer:

Name: Walker Street Development Pty Limited
Address: 44 Waratah Street Mona Vale NSW 2103
Telephone: 8878 6962
Facsimile: 8878 6995
Email: paul.addison@billbergia.com.au and legal@billbergia.com.au
Representative: Paul Addison

Landowners:

Name: Bay Tower Pty Limited
Address: Suite 101, 25 Angas Street Meadowbank NSW 2114
Telephone: 8878 6962
Facsimile: 8878 6995
Email: paul.addison@billbergia.com.au and legal@billbergia.com.au
Representative: Paul Addison

and

Name: Twenty One Marquet Street Pty Limited
Address: Suite 101, 25 Angas Street Meadowbank NSW 2114
Telephone: 8878 6962

CAN_CAN24013_007 FOURTH DEED OF VARIATION EXHIBITION.DOCX

**Rhodes West Station Precinct - Marquet & Walker Streets Planning
Agreement – Fourth Deed of Variation**



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twenty Three Marquet Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twelve Walker Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Thirty Four Walker Street Pty Ltd

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement****Fourth Deed of Variation**Under s203(5) of the *Environmental Planning and Assessment Regulation 2021***Parties****City of Canada Bay Council** ABN 79 130 029 250 of 1a Marlborough Street, Drummoyne NSW (**Council**)

and

Walker Street Development Pty Ltd ACN 164 083 809 of 44 Waratah Street, Mona Vale NSW (**Developer**)

and

Bay Tower Pty Limited ACN 099 267 464 of Suite 101, 25 Angas St, Meadowbank NSW (**Bay Tower**)

and

Twenty One Marquet Street Pty Ltd ACN 165 919 693 of Suite 101 25 Angas St, Meadowbank NSW (**Twenty One Marquet St**)

and

Twenty Three Marquet Street Pty Ltd ACN 165 919 693 of Suite 101 25 Angas St, Meadowbank NSW (**Twenty Three Marquet St**)

and

Twelve Walker Street Pty Ltd ACN 166 282 542 of Suite 101, 25 Angas St, Meadowbank NSW (**Twelve Walker**)

and

Thirty Four Walker Street Pty Ltd ABN 36 165 847 076 of Suite 101, 25 Angas St, Meadowbank NSW (**Thirty Four Walker**)**Background**

- A The Parties are parties to the Planning Agreement.
- B The Parties wish to amend the Planning Agreement in respect of the application of monetary contributions to the purpose of construction of roads and public domain works in the vicinity of the Land, and to require the Developer to carry out those additional roadworks and public domain works.
- C The Parties agree to vary the Planning Agreement in accordance with this Deed.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Operative provisions**Part 1 - Preliminary****1 Interpretation**

1.1 In this Deed the following definitions apply:

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Party means a party to this Deed.

Planning Agreement means the document titled '*Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement Under Section 93F of the Environmental Planning & Assessment Act 1979*' entered into between the Parties on 8 February 2016 and amended by the Deeds of Variation entered into on 21 March 2018; 12 November 2021 and 19 October 2022.

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

1.2 Except as provided by clause 1.1 all capitalised words used in this Deed that are defined in clause 1.1 of the Planning Agreement have the same meaning in this Deed as they have in the Planning Agreement.

2 Status of this Deed

2.1 This Deed is an amendment to the Planning Agreement within the meaning of section 203(5) of the Regulation.

3 Commencement

3.1 This Deed takes effect on the date when all Parties have executed this Deed.

3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Warranties

4.1 The Parties warrant to each other that they:

4.1.1 have full capacity to enter into this Deed, and

4.1.2 are able to fully comply with their obligations under this Deed and the Planning Agreement as modified by this Deed.

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

5 Amendment of Planning Agreement

- 5.1 On and from the date this Deed takes effect:
 - 5.1.1 the Planning Agreement is amended in accordance with the marking-up shown on the copy of the Planning Agreement which is Annexure A to this Deed;
 - 5.1.2 Schedule 1 of the Planning Agreement is amended in accordance with the marking up shown on Schedule 1 in the copy of the Planning Agreement which is Annexure A to this Deed; and
 - 5.1.3 The text reading 'NOT USED' in Schedule 3 of the Planning Agreement is deleted, and a new Schedule 3 is included being Schedule 3 in the copy of the Planning Agreement which is Annexure A to this Deed.
- 5.2 For the avoidance of doubt, and except as provided in clause 5.1, the other Schedules and Appendix to the Planning Agreement remain part of the Planning Agreement, but are not included in the Planning Agreement in the annexure to this Deed and have not been amended.

6 Costs

- 6.1 The Parties are to bear their own costs of preparing, negotiating, executing and stamping this Deed.

7 Explanatory Note

- 7.1 The Appendix to this Deed contains the Explanatory Note relating to this Deed required by section 205 of the Regulation.
- 7.2 Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

**Rhodes West Station Precinct - Marquet & Walker Streets Planning
Agreement – Fourth Deed of Variation**

City of Canada Bay Council

Walker Street Development Pty Limited & Ors



Annexure A

(Clause 5)

Amended Planning Agreement

The Planning Agreement as amended by this Deed appears on the following pages.

**Rhodes West Station Precinct - Marquet & Walker Streets Planning
Agreement – Fourth Deed of Variation**



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of the Developer in accordance with s127(1) of the
Corporations Act (Cth) 2001

Name/Position

Name/Position

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Executed on behalf of Twenty One Marquet St in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Bay Tower in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Twelve Walker in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Thirty Four Walker in accordance with s127(1) of the Corporations Act (Cth) 2001

CAN_CAN24013_007 FOURTH DEED OF VARIATION EXHIBITION.DOCX

**Rhodes West Station Precinct - Marquet & Walker Streets Planning
Agreement – Fourth Deed of Variation**

City of Canada Bay Council

Walker Street Development Pty Limited & Ors



Name/Position

Name/Position

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Appendix**

(Clause 7)

Environmental Planning and Assessment Regulation 2021

(Section 205)

Explanatory Note**Fourth Deed of Variation to Planning Agreement**Under s203(5) of the *Environmental Planning and Assessment Regulation 2021***Parties****City of Canada Bay Council** ABN 79 130 029 250 of 1a Marlborough St, Drummoyne NSW 2047 (**Council**)**Walker Street Development Pty Limited** ACN 164 083 809 of 44 Waratah Street Mona Vale NSW 2103 (**Developer**)**Bay Tower Pty Limited** ACN 099 267 464 of Suite 101, 25 Angas St, Meadowbank NSW 2114 (**Bay Tower**)**Twenty One Marquet Street Pty Limited** ACN 165 919 693 of Suite 101, 25 Angas Street Meadowbank NSW 2114 (**Twenty One Marquet St**)**Twelve Walker Street Pty Limited** ACN 166 282 542 of Suite 101, 25 Angas Street Meadowbank NSW 2114 (**Twelve Walker**)**Thirty Four Walker Street Pty Ltd** ABN 36 165 847 076 of Suite 101, 25 Angas St, Meadowbank NSW 2114 (**Thirty Four Walker**)**Description of the Land to which the Deed of Variation Applies**

The Fourth Deed of Variation applies to the same Land as the Land the subject of the Planning Agreement.

Description of Proposed Development

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

The Fourth Deed of Variation applies to the same Development as the Development the subject of the Planning Agreement.

Summary of Objectives, Nature and Effect of the Deed of Variation**Objectives of the Fourth Deed of Variation**

The objective of the Fourth Deed of Variation is to amend the Planning Agreement.

Nature of the Fourth Deed of Variation

The Fourth Deed of Variation is a deed of variation to the Planning Agreement under s203(5) of the *Environmental Planning and Assessment Regulation 2021*.

Effect of the Fourth Deed of Variation

The Fourth Deed of Variation varies the Planning Agreement in respect of the application of monetary contributions and to require additional roadworks to be constructed by the Developer.

Assessment of the Merits of the Deed of Variation**The Planning Purposes Served by the Third Deed of Variation**

The amended Planning Agreement:

- promotes the orderly and economic use and development of the Land to which the agreement applies,
- facilitates the provision of land for public purposes in connection with the Development,
- facilitates the provision of community services and facilities, and
- promotes increased opportunity for public in environmental planning and assessment.

How the Deed of Variation Promotes the Public Interest

The amended Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3 of the Act.

For Planning Authorities:***Development Corporations - How the Deed of Variation Promotes its Statutory Responsibilities***

N/A

Other Public Authorities – How the Deed of Variation Promotes the Objects (if any) of the Act under which it is Constituted

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

N/A

Councils – How the Deed of Variation Promotes the Elements of the Council's Charter

The amended Planning Agreement:

- promotes the provision of adequate, equitable and appropriate services and facilities for the community by making provision for community infrastructure,
- facilitates involvement of the community in decision making regarding the provision of community infrastructure, and
- secures funding for community infrastructure for which it is provided to meet the needs of residents within the locality.

All Planning Authorities – Whether the Deed of Variation Conforms with the Authority's Capital Works Program

The Fourth Deed of Variation will conform with the Council's capital works program.

All Planning Authorities – Whether the Deed of Variation specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes, the amended Planning Agreement requires monetary Development Contributions to be made prior to the issue of subdivision certificates and occupation certificates.



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Deed

Rhodes West Station Precinct – Marquet & Walker Streets

Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

City of Canada Bay Council

Walker Street Development Pty Limited

Bay Tower Pty Limited

Twenty One Marquet Street Pty Limited

Twenty Three Marquet Street Pty Limited

Twelve Walker Street Pty Limited

Thirty Four Walker Street Pty Ltd

Dated:

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Rhodes West Station Precinct – Marquet & Walker Streets
Planning Agreement**

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City of Canada Bay Council

Walker Street Development Pty Limited & Ors

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

City of Canada Bay Council

Walker Street Development Pty Limited & Ors



Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement

Summary Sheet

Council:

Name: City of Canada Bay Council
Address: 1a Marlborough Street, Drummoyn
Telephone: 9911 6555
Facsimile: 9911 6550
Email: council@canadabay.nsw.gov.au
Representative: Director- City Services and Assets

Developer:

Name: Walker Street Development Pty Limited
Address: 44 Waratah Street Mona Vale NSW 2103
Telephone: 8878 6962
Facsimile: 8878 6995
Email: paul.addison@billbergia.com.au and legal@billbergia.com.au
Representative: Paul Addison

Landowners:

Name: Bay Tower Pty Limited
Address: Suite 101, 25 Angas Street Meadowbank NSW 2114
Telephone: 8878 6962
Facsimile: 8878 6995
Email: paul.addison@billbergia.com.au and legal@billbergia.com.au
Representative: Paul Addison

and

Name: Twenty One Marquet Street Pty Limited
Address: Suite 101, 25 Angas Street Meadowbank NSW 2114
Telephone: 8878 6962

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

City of Canada Bay Council

Walker Street Development Pty Limited & Ors



Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twenty Three Marquet Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

And

Name: Twelve Walker Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Thirty Four Walker Street Pty Ltd

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

Land:

See definition of *Land* in clause 1.1 and Schedule 7.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See clause 10 and Schedule 1.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

City of Canada Bay Council

Walker Street Development Pty Limited & Ors



Application of s7.11, 7.12 and 7.24 of the Act:

See clause 9.

Enforcement:

See Part 7

Registration:

See clause 34.

Restriction on dealings:

See clause 35.

Dispute Resolution:

See Part 6.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**Under s7.4 of the *Environmental Planning and Assessment Act 1979***Parties****City of Canada Bay Council** ABN 79 130 029 250 of 1a Marlborough Street, Drummoyne NSW (**Council**)

and

Walker Street Development Pty Ltd ACN 164 083 809 of 44 Waratah Street, Mona Vale NSW (**Developer**)

and

Bay Tower Pty Limited ACN 099 267 464 of Suite 101, 25 Angas St, Meadowbank NSW (**Bay Tower**)

and

Twenty Three Marquet Street Pty Limited ACN 601 336 887 of Suite 101, 25 Angas St, Meadowbank NSW (**Twenty Three Marquet St**)

and

Twenty One Marquet Street Pty Ltd ACN 165 919 693 of Suite 101 25 Angas St, Meadowbank NSW (**Twenty One Marquet St**)

and

Twelve Walker Street Pty Ltd ACN 166 282 542 of Suite 101, 25 Angas St, Meadowbank NSW (**Twelve Walker**)

and

Thirty Four Walker Street Pty Ltd ABN 36 165 847 076 of Suite 101, 25 Angas St, Meadowbank NSW (**Thirty Four Walker**)**Background**

- A The Landowners own the Land, or have legally enforceable rights to acquire the Land.
- B The Landowners and Developer are related entities and the Developer will carry out the Development of the Land for the Landowners.
- C The Council has sought the Instrument Change.
- D The Developer proposes to lodge a Development Application with Council for the Development.
- E The Developer has agreed to make Development Contributions in connection with the carrying out of the Development.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

City of Canada Bay Council

Walker Street Development Pty Limited & Ors

**Operative provisions****Part 1 - Preliminary****1 Interpretation**

1.1 In this Deed the following definitions apply:

2018 Consent means the Development Consent granted to DA2017/0544.

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Additional Residential GFA means the total amount of Gross Floor Area in the Development used for the purposes of Residential Accommodation, Hotel or Serviced Apartment which is in excess of the Gross Floor Area which would be permitted on the land on which the Development is proposed if a floor space ratio of 1.76:1 (calculated in accordance with the LEP as in force immediately prior to the Instrument Change) was applied.

Additional Residential GFA – SEPP means the part of the Additional Residential GFA which is in excess of that which was permitted on the Land immediately prior to the First SEPP Amendment.

Amended LEP means the LEP as amended by the Station Precinct LEP once made.

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,
 - (ii) Commonwealth Bank of Australia,
 - (iii) Macquarie Bank Limited,
 - (iv) National Australia Bank Limited,
 - (iv) St George Bank Limited,
 - (v) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council in its absolute discretion.

Building means a building in the Development as generally identified in the plan at Schedule 6.

BCA means the Building Code of Australia.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

BMS means a building management statement within the meaning of Division 3B of Part 23 of the *Conveyancing Act 1919*, or any other instrument which, without limitation, provides for the allocation of costs of shared expenses relating to the Building containing the Recreation Centre.

Certificate of Completion means a certificate to the effect that Council agrees that Completion has occurred.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Commercial Premises means *business premises* or *office premises* as defined in the LEP, and for the avoidance of doubt, does not include a Hotel.

Completion is the stage in the carrying out and completion of the Rec Centre Work or Roadworks-Additional when:

- (a) the Rec Centre Work or Roadworks – Additional is completed except for minor Defects:
 - (i) which do not prevent the Rec Centre Work or Roadworks – Additional from being capable of being used for its stated purpose;
 - (ii) which the Developer has reasonable grounds for not promptly rectifying; and
 - (iii) the rectification of which will not prejudice the convenient use of the Rec Centre Work or Roadworks – Additional;
- (b) those Tests which are required by the Deed to be carried out before the Rec Centre Work or Roadworks – Additional reach Completion have been carried out and passed; and
- (c) documents and other information required under the Deed which are essential for use, operation and maintenance of the Rec Centre Work or Roadworks – Additional have been supplied to the Council.

Concept Design means the concept design for the modified Recreation Centre which is contained in the documents referred to at Schedule 5.

Concept Design Cost Plan means the cost plan for the Concept Design which is contained in the documents referred to at Schedule 5.

Construction Certificate has the same meaning as in the Act.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

CPI means the *Consumer Price Index (All Groups – Sydney)* published by the Australian Bureau of Statistics.

Date of Completion has the meaning given to that term in clause 9.3 of Schedule 10 or where another date is determined in any expert determination or litigation as the date upon which Completion was reached, that other date.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means any defect or omission in the Rec Centre Work.

Defects Liability Period means 12 months from the Date of Completion.

Designer means a person referred to in s22(1) of the WHS Act.

Detailed Design means plans and specifications for the Recreation Centre prepared for the purposes of the issue of a Construction Certificate, including any samples and finishes.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

Development means any development within the meaning of the Act on the Land which would breach the height and floor space ratio controls in the LEP as in force before the Instrument Change, including development with a height and floor space which is only permitted under the LEP as a result of the First SEPP Amendment or Second SEPP Amendment, or both, but excluding any development which is only permitted as a result of an amendment to the LEP or a new environmental planning instrument made after the Third Deed of Variation Date.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose, but does not include any Security or other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s7.4(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Deed.

Estimated Costs means the estimated costs of the Recreation Centre being \$ 67,753,270.93 (ex GST) calculated in accordance with the Concept Design Cost Plan, as amended under clause 21 or clauses 1.4 or 3.2.3 of Schedule 10, and increased by any amount by which the Rec Centre Monetary Contributions are increased due to indexation between August 2020 and Completion.

Final Lot means a lot created in the Development for separate residential occupation and disposition or a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a subdivision of the Land:

- (a) that is to be dedicated or otherwise transferred to the Council, or
- (b) on which is situated a dwelling-house that was in existence on the date of this Deed.

Fourth Deed of Variation Date means the date on which the Fourth Deed of Variation to this Deed is entered into.

Fund means a special ledger account held by Council in respect of all Monetary Payments.

Gross Floor Area has the same meaning as in the LEP.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Hotel has the same meaning as in the LEP.

Instrument Change means the making of the Station Precinct LEP.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

Intellectual Property Rights includes any rights, title and interest, together with all statutory and common-law rights attaching thereto (including the right to sue for damages and other remedies in respect of any infringement or misuse or other unauthorised acts for the full period of such rights) in any:

- (a) copyright;
- (b) design, patent, trademark, semiconductor or circuit layout (whether registered, unregistered or applied for);
- (c) trade, business, company or domain name; and
- (d) know-how, inventions, processes, confidential information (whether in writing or recorded in any form);

and any other proprietary, licence or personal rights arising from intellectual activity in the business, industrial, scientific or artistic fields.

Item means an item specified in Column 1 of the table in Schedule 1.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means the land described in Columns 1 and 2 of Schedule 7.

Landowner means, subject to clause 6.4, the entity listed in Column 3 of Schedule 7 in respect of each part of the Land described in Columns 1 and 2 of Schedule 7, even if at the date of this Deed that entity does not own the relevant part of the Land, and an obligation in this Deed on a Landowner applies to the Landowner in respect of the Land to which the obligation relates.

LEP means the *Canada Bay Local Environmental Plan 2013*.

Monetary Development Contributions means the monetary Development Contributions required by clause 10.1 and Part A of the table in Schedule 1.

Monetary Payment has the meaning given to that term in clause 14.

Occupation Certificate has the same meaning as in the Act.

Party means a party to this Deed.

Planning Proposal means the planning proposal within the meaning of the Act entitled '*Planning Proposal – Proposed Amendment to the Canada Bay Local Environmental Plan 2013 – Amendment No. 3 – Station Precinct (Precinct D) – Rhodes Peninsula*' submitted by Council to the Department of Planning in December 2013 and given the reference number PP_2013_CANAD_004_00, or other planning proposal in respect of the Land submitted by the Council to the Department of Planning that is similar to PP_2013_CANAD_004_00.

Principal Contractor means the person identified as the principal contractor under WHS laws in respect of a Work.

Project Costs means costs incurred in carrying out the Rec Centre Works of the type set out in the Concept Design Cost Plan.

Public Art Contribution means the Monetary Development Contribution being Item A.7 in the table to Schedule 1.

Rec Centre Credits means the credits granted under clause 18.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

Rec Centre Modification Application means a development application or an application to modify the 2018 Consent or any other Development Consent, seeking approval for the Concept Design.

Rec Centre Monetary Contributions means the Monetary Development Contributions which are required to be applied towards the Recreation Centre.

Rec Centre Work means the Work comprising the construction of the Recreation Centre.

Recreation Centre means the community centre, childcare centre and public parking, approved by the 2018 Consent or as shown in the Concept Design if the Rec Centre Modification Application is approved, and constructed in accordance with this Deed.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Residential Accommodation means the types of accommodation listed in paragraphs (a) to (m) of the definition of *residential accommodation* in the LEP.

Retail Premises has the same meaning as in the LEP.

Roadworks means upgrading half of the width of Gauthorpe Street, half of the width of Marquet Street and the full width of Walker Street and corresponding footpaths, for the entire frontage of the Development, in accordance with the AUSPEC specification with the road pavement designed in accordance with the Austroads Pavement Design Guidelines for 1.23 x 10⁷ equivalent Standard Axles and the plan at Schedule 4.

Roadworks – Additional means the works defined in clause 13.

RRCF means the *Renewing Rhodes Contributions Framework* prepared by planningNSW.

RRCF Contribution means Item 6 in the Table to Schedule 1.

Second Deed of Variation Date means the date on which the Second Deed of Variation to this Deed is entered into.

Security means a Bank Guarantee to the satisfaction of Council.

Serviced Apartments has the same meaning as in the LEP.

Stage means a stage in the Development as shown on the plan at Schedule 6.

Station Precinct LEP means the local environmental plan proposed to be made pursuant to the Planning Proposal.

Subdivision Certificate has the same meaning as in the Act.

Supplier means a person referred to in s25(1) of the WHS Act.

First SEPP Amendment means the *State Environmental Planning Policy Amendment (Rhodes Precinct) 2021* which had the effect of amending the LEP on 30 October 2021.

Second SEPP Amendment means the *State Environmental Planning Policy Amendment (Rhodes Precinct) 2022* which had the effect of amending the LEP on 18 March 2022.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

SEPP Contributions means any Monetary Development Contributions made in respect of any Gross Floor Area in the Development which is in excess of that which was permitted on the Land immediately prior to the First SEPP Amendment.

Test means test, and includes examine and measure.

Third Deed of Variation Date means the date on which the Third Deed of Variation to this Deed is entered into.

Variation means a variation to the Detailed Design under clause **Error! Reference source not found.** of Schedule 10.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

Workplace has the same meaning as in the WHS Act.

WHS Act means the *Work Health & Safety Act 2011 (NSW)* and includes any regulations made under that Act.

WHS Law means the WHS Act or the *Work Health and Safety Regulation 2011 (NSW)* or any equivalent Commonwealth work health and safety laws.

34 Walker St means the part of the Land described as such in Schedule 7.

- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement**City of Canada Bay Council****Walker Street Development Pty Limited & Ors**

- 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
- 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
- 1.2.14 A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- 1.2.16 Any schedules, appendices and attachments form part of this Deed.
- 1.2.17 Notes appearing in this Deed are operative provisions of this Deed.

2 Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of s7.4(1) of the Act.

3 Commencement

- 3.1 This Deed takes effect on the later of the date:
 - 3.1.1 when all Parties have executed one counterpart of this Deed, and
 - 3.1.2 of commencement of the Amended LEP:
other than parts 1, 6, 7 (except for clause 30), 8 and 10, which commence on the date of execution of counterparts of this Deed by all Parties. The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Application of this Deed

- 4.1 This Deed applies to the Land and to the Development.

5 Warranties

- 5.1 The Parties warrant to each other that they:
 - 5.1.1 have full capacity to enter into this Deed, and
 - 5.1.2 are able to fully comply with their obligations under this Deed.

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6 Ownership of the Land

- 6.1 The Landowners warrant that they either own the Land or have legally enforceable rights to acquire the title to such part of the Land which they do not, at the date of this Deed, own (**Option Land**), before any obligations arise under this Deed in respect of that Land.

7 Further agreements

- 7.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

8 Surrender of right of appeal, etc.

- 8.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings involves a challenge to, or an appeal against any aspect of this Deed.

9 Application of s7.11, 7.12 and 7.24 of the Act to the Development

- 9.1 This Deed excludes the application of s7.11 and 7.12 of the Act to the Development.
- 9.2 This Deed does not exclude the application of s7.24 to the Development.

Part 2 - Development Contributions**10 Provision of Development Contributions**

- 10.1 The Developer is to make the Development Contributions described in the table in Schedule 1 to the Council in accordance with Schedule 1 and any other provision of this Deed relating to the making of Development Contributions.
- 10.2 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose, if any, for which this Deed specifies the Development Contribution is made and otherwise in accordance with this Deed.
- 10.3 Despite clause 10.2, but subject to the Council's obligation to apply Rec Centre Monetary Contributions towards the Recreation Centre up to the Estimated Cost, and to apply Monetary Development Contributions to the Roadworks – Additional, the Council may apply a Development Contribution

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made under this Deed towards a public purpose other than the public purpose specified in this Deed if the Council reasonably considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.

- 10.4 Notwithstanding clause 10.1, any Development Contribution comprising the dedication of any part of the Land is to be made by the Landowner, and not the Developer (unless the Developer is the Landowner).

11 Indexation of Development Contributions

- 11.1 Each Monetary Development Contribution is to be indexed between the date of this Deed and the date on which this Deed specifies that the relevant Development Contribution is taken to be made, in accordance with the following formula:

$$IV = V \times \frac{CPI_2}{CPI_1}$$

Where:

IV means the indexed value of the Monetary Development Contribution;

V means the Monetary Development Contribution specified in this Deed;

CPI2 means the CPI index number for the quarter immediately before the calculation of the IV is to be made; and

CPI1 means the CPI index number published for December 2013 in respect of Item 1 – Retail Gross Floor Area contribution, Item 2 – Commercial Gross Floor Area contribution and Item 3 – Residential Gross Floor Area contribution (but only in respect of the rate for levels up to and including level 25), the CPI index number published March 2022 in respect of Item 8 - Residential Accommodation Gross Floor Area – SEPP contribution, and the CPI index number published for September 2014 in respect of all other Monetary Development Contributions.

- 11.2 Notwithstanding clause 11.1, the application of the formula in clause 11.1 to a Monetary Development Contribution cannot result in a reduction in the Monetary Development Contribution.

12 Calculation of Monetary Development Contributions

- 12.1 For the purpose of calculating the Monetary Development Contributions required by clause 10.1, the Developer must, when lodging a Development Application or any modification application within the meaning of s4.55 of the Act for the Development, include the following calculations:

12.1.1 the site area of the part of the Land on which each Building in the Development is proposed to be carried out, certified by a registered surveyor;

12.1.2 the total Gross Floor Area for each Building in the Development;

12.1.3 the Additional Residential GFA of each Building in the Development;

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- 12.1.4 the proportion of any Additional Residential GFA which is Additional Residential GFA - SEPP;
- 12.1.5 the amount of Gross Floor Area of each Building in the Development proposed to be used for Retail Premises, including the amount proposed at basement level, ground level and first floor level; and
- 12.1.6 the amount of Gross Floor Area of the Development proposed to be used for Commercial Premises.

13 Roadworks and Roadworks - Additional**Roadworks**

- 13.1 The Developer must carry out the Roadworks in accordance with any Development Consent which requires the Roadworks to be carried out.
- 13.2** If the Council requires any part of the Roadworks to be constructed to a standard higher than that contained in the AUSPEC specification with the road pavement designed in accordance with the Austroads Pavement Design Guidelines for 1.23 x 10⁷ equivalent Standard Axles, the Council will reimburse the Developer for the additional costs, as determined by a quantity surveyor agreed in writing between the Parties.

Roadworks - Additional

- 13.3** If required by Council, the Developer must carry out additional works in the areas marked in red on the plan contained in Schedule 3 including road pavement, pedestrian crossings, driveways and public domain works pursuant to this clause 13 (Roadworks - Additional).
- 13.4** If the Council requires the Developer to carry out the Roadworks-Additional, the Council must issue a notice to the Developer within 14 days of the Fourth Deed of Variation Date and provide the Developer with a high level concept brief plan and specification which outlines Council's general requirements for the Roadworks - Additional (RWA Council Brief).
- 13.5** The Developer must, within 40 days of receipt of the RWA Council Brief, provide a concept design to the Council for the Roadworks – Additional which is consistent with the RWA Council Brief (RWA Concept Design).
- 13.6** The RWA Concept Design is to be accompanied by a cost plan prepared by a suitably qualified quantity surveyor that outlines the costs associated with the works documented in the RWA Concept Design (RWA Concept Design Cost Plan)
- 13.7** The Council must advise the Developer of whether it approves or disapproves of the RWA Concept Design and the RWA Concept Design Cost Plan within 15 days of its submission to Council under clauses 13.5 and 13.6, and if Council disapproves of the RWA Concept Design and the RWA Concept Design Cost Plan, the Developer must resubmit a new RWA Concept Design and new RWA Concept Design Cost Plan within the time specified by Council for approval by Council.
- 13.8** Once Council has approved the RWA Concept Design and any Approvals for the carrying out of the Roadworks – Additional have been obtained, the

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Developer must prepare a detailed design for the Roadworks – Additional (RWA Detailed Design).

13.9 The RWA Detailed Design must be prepared in accordance with:

13.9.1 the RWA Concept Design approved by Council;

13.9.2 Schedule 3; and

13.9.3 any applicable Approval.

13.10 The RWA Detailed Design must include the following:

13.10.1 construction staging diagram; and

13.10.2 construction delivery programme

13.11 The Developer shall be responsible for obtaining any relevant Approvals to carry out the Roadworks – Additional.

Costs of Roadworks - Additional

13.12 The cost of the Roadworks – Additional must not exceed an amount equal to the Monetary Development Contributions payable under this Deed less any Rec Centre Monetary Contributions, unless otherwise agreed between parties in writing (RWA Costs Cap).

13.13 All costs incurred in the carrying out of the Roadworks - Additional, are to be borne by the Developer, up to the RWA Costs Cap (RWA Project Costs).

13.14 The Financial Certifier appointed under clause 18 is to also perform functions under this clause 13.

13.15 The Developer must progressively submit documentation evidencing the incurring of RWA Project Costs to the Council and the Financial Certifier (the RWA Progress Statement), provided that the Developer may not submit a RWA Progress Statement more than once every month.

13.16 The Developer must provide the Council and Financial Certifier with any documents in addition to its RWA Progress Statement which the Financial Certifier reasonably requires to enable the Financial Certifier to exercise its functions under this clause.

13.17 The Council must use its best endeavours to ensure that the Financial Certifier, within 14 days of receipt of a RWA Progress Statement (or any further information the Financial Certifier has requested, whichever is the later), issues to Council and the Developer a certificate (RWA Financial Certifier's Certificate) setting out the Financial Certifier's opinion of the RWA Project Costs properly incurred by the Developer in respect of the works the subject of the RWA Progress Statement (RWA Certified Costs) and the reasons for any difference between the RWA Certified Costs and the RWA Project Costs set out in the RWA Progress Statement.

13.18 On receipt of the RWA Financial Certifier's Certificate Council must pay to the Developer out of the Fund an amount equal to the RWA Certified Costs, subject to clause 13.19.

13.19 If there are insufficient funds in the Fund at that time of receipt of the RWA Financial Certifier's Certificate to pay the whole or part of the RWA Certified Costs noted in the RWA Financial Certifier's Certificate, the Council will pay the Developer an amount equal to the RWA Certificate Costs in the RWA

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Financial Certifier's Certificate from other funds available to Council, and when money is available in the Fund for the Roadworks-Additional, Council will reimburse itself for that amount from the Fund.

13.20 Not used.

13.21 Council will bear the costs of the Roadworks-Additional to the extent that those costs exceed the RWA Costs Cap.

13.22 The following clauses of Schedule 10 apply to the construction and delivery of the Roadworks – Additional, with references to the Rec Centre Works in the following clauses being taken as references to the Roadworks – Additional, and references to the Detailed Design being taken as references to the RWA Detailed Design:

13.22.1 clause 2.4 – with references to clause 2.2 of Schedule 10 being to clause 13.9;

13.22.2 clause 2.5, 2.6 and 2.7;

13.22.3 clause 3.1;

13.22.4 clause 3.2;

13.22.5 clause 4 – other than clause 4.2.2 (b) and (c) and clause 4.3;

13.22.6 clauses 5, 6 and 7, other than clause 7.1.3;

13.22.7 clause 8 (other than clause 8.3), but with the 'Transfer Date' in clause 8.1 for the Roadworks- Additional being the date of Completion of the Roadworks-Additional under clause 9 of Schedule 10;

13.22.8 clause 9, 10 and 11; and

13.22.9 clauses 14.

13.23 The Developer shall deliver to the Council within 60 Days from Completion of the Roadworks - Additional, deeds of warranty from all contractors or subcontractors engaged by the Developer in relation to or in connection with the Roadworks - Additional and all suppliers of equipment or components incorporated into the Roadworks - Additional, unless the Council notifies the Developer in writing that it does not require such a deed of warranty from a particular contractor, subcontractor or supplier.

13.24 A Monetary Development Contribution will be taken to have been applied towards the Roadworks – Additional if it is paid out of the Fund to Council to reimburse Council for expenditure on the RWA Certified Costs under clause 13.19.

13.2 —

14 Payment of Monetary Development Contributions

14.1 A Monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed:

14.1.1 in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council (**Monetary Payment**); or

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- 14.1.2 by the application of Rec Centre Credits equal to the full amount of a Rec Centre Monetary Contribution payable; or
- 14.1.3 by a combination of a Monetary Payment and application of Rec Centre Credits the sum of which equals the full amount of a Rec Centre Monetary Development Contribution payable.
- 14.2 A Monetary Development Contribution made under this Deed is to be accompanied by a survey report prepared by a registered surveyor that shows the Gross Floor Area in the Development pursuant to which the Monetary Development Contributions are calculated.
- 14.3 A Monetary Development Contribution made under this Deed is to be accompanied by details provided in the format of the table contained in Schedule 11.

15 Public Art

- 15.1 Council will implement a public art programme for Stage 2 of the Development, which is to provide for public art as part of the Recreation Centre.
- 15.2 The Developer will pay the Public Art Contribution in accordance with Schedule 1.

Part 3 – Provisions regarding the Dedication of Land**16 Stratum Lot for Recreation Centre**

- 16.1 The Parties agree that the Recreation Centre will be contained in a separate stratum lot to the remainder of the Building within which it is located (**RC Stratum Lot**).
- 16.2 The Recreation Centre vests in Council when the RC Stratum Lot is dedicated to Council in accordance with clause 17.

17 Dedication of land

- 17.1 A Development Contribution comprising the dedication of land is made for the purposes of this Deed when:
 - 17.1.1 if the land to be dedicated is proposed to be a public road or reserve, or drainage reserve, a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
 - 17.1.2 the Council is given:
 - (a) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developer as transferor that is

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- effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
- (b) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - (c) a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 17.2 The Landowner is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 17.3 Subject to clause 17.7, the Landowner is to ensure that land dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council, and in respect of encumbrances or affectations arising from the construction of any Building which forms part of the Development, such agreement must be obtained before the Landowner or Developer seeks a Construction Certificate for that Building.
- 17.4 If, having used all reasonable endeavours, the Landowner cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and affectations, subject to clause 17.7, the Landowner may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.
- 17.5 Despite any other provision of this Deed, if the Landowner is required to dedicate land to the Council on which the Developer is also required to carry out a Work under this Deed, the Landowner is to comply with clause 17.1.2 not later than 7 days after the Work is completed for the purposes of this Deed.
- 17.6 For the avoidance of doubt, for the purposes of this clause an encumbrance or affectation includes the need for any part of the land to be dedicated to be used as emergency egress from a building, or to be free of obstruction for the purposes of the BCA, any other law, or any requirement of any Authority.
- 17.7 Before the RC Stratum Lot is dedicated to Council any easements or covenants reasonably required by the Council to access the Recreation Centre and RC Stratum Lot must have been registered on title to the RC Stratum Lot on terms reasonably satisfactory to the Council

Part 4 – Recreation Centre**18 Costs of Recreation Centre and Offset Against Rec Centre Monetary Contributions**

- 18.1 All costs incurred in the construction and fit out of the Recreation Centre, including those in excess of the Estimated Costs, are to be borne by the Developer, subject to any increase in costs to be borne by Council in accordance with clause 3 of Schedule 10.

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- 18.2 The Council and the Developer must jointly agree on and appoint a suitably qualified person, with costs to be shared equally between Council and the Developer, for the purposes of this clause (**Financial Certifier**), and a failure to agree on the Financial Certifier is a dispute for the purposes of Part 6 of this Deed.
- 18.3 The Developer must progressively submit documentation evidencing the incurring of Project Costs to the Council and the Financial Certifier (the Progress Statement), provided that the Developer may not submit a Progress Statement more than once every month.
- 18.4 The Developer must provide the Council and Financial Certifier with any documents in addition to its Progress Statement which the Financial Certifier reasonably requires to enable the Financial Certifier to exercise its functions under this clause.
- 18.5 The Council must use its best endeavours to ensure that the Financial Certifier, within 14 days of receipt of a Progress Statement (or any further information the Financial Certifier has requested, whichever is the later), issues to Council and the Developer a certificate (Financial Certifier's Certificate) setting out the Financial Certifier's opinion of the Project Costs properly incurred by the Developer in respect of the works the subject of the Progress Statement (Certified Costs) and the reasons for any difference between the Certified Costs and the Project Costs set out in the Progress Statement.
- 18.6 On receipt of the Financial Certifier's Certificate:
- 18.6.1 Council will pay to the Developer out of the Fund an amount equal to the Certified Costs noted in the Financial Certifier's Certificate; or
- 18.6.2 if there are insufficient funds in the Fund to pay the whole or part of the Certified Costs noted in the Financial Certifier's Certificate, the Developer will be taken to have earned Rec Centre Credits in the amount of the Certified Costs contained in the Financial Certifier's certificate, less any amount paid out of the Fund to the Developer in respect of that Financial Certifier's Certificate pursuant to clause 18.6.1.
- 18.7 Within 5 Business Days of the issue of the Financial Certifier's Certificate, Council will issue to the Developer a notice of all Rec Centre Credits held by the Developer and not yet applied to Rec Centre Monetary Contributions.
- 18.8 The final Financial Certifier's Certificate is to include an amount which is equal to the amount by which the Rec Centre Monetary Contributions increased due to indexation, between August 2020 and Completion.
- 18.9 Notwithstanding the remainder of this clause, but subject to clause 18.10, the total amount of Rec Centre Credits which can be applied to meet Rec Centre Monetary Contributions, cannot exceed the Estimated Cost less any amounts of money paid by the Council to the Developer out of the Fund.
- 18.10 Where, at the date of issue of the final notice of Rec Centre Credits under clause 18.7, the Developer has a positive balance of Rec Centre Credits, the value of those Rec Centre Credits will be
- indexed between that date, and the date on which the Rec Centre Credits, or any portion of them, are used toward the payment of a Rec Centre Monetary Contribution, in accordance with the following formula:

$$IV = V \times \frac{CPI_2}{CPI_1}$$

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CPI₁**Where:**

- IV** means the indexed value of the relevant Rec Centre Credits;
- V** means the value of the relevant Rec Centre Credits as shown on the final notice of Rec Centre Credits issued under clause 18.7;
- CPI2** means the CPI index number for the quarter immediately before the calculation of the IV is to be made; and
- CPI1** means the CPI index number published for the quarter immediately before the calculation of V is to be made.

19 Security for Rec Centre Monetary Contributions

- 19.1 Notwithstanding clause 14, the Developer may provide Security for the amount of any Rec Centre Monetary Contributions payable which it cannot meet by the application of Rec Centre Credits at the time the Rec Centre Monetary Contributions are payable.
- 19.2 The Developer may not provide Security under clause 19.1 unless the Developer has first applied all Rec Centre Credits held by the Developer to meet an obligation to pay a Rec Centre Monetary Contribution.
- 19.3 The Security provided under clause 19.1 is to be held to secure the performance by the Developer of its obligation to pay the relevant Rec Centre Monetary Contributions and carry out the Rec Centre Work.
- 19.4 If the Developer has provided Security under clause 19.1 any Rec Centre Credits earned after the date of provision of the Security, up to the value of that Security can be applied to reduce the Security held by the amount of the Rec Centre Credits so applied.
- 19.5 The Council may call on any Security if the Developer does not comply with clause 20.5 and Council determines to apply the Rec Centre Monetary Contributions elsewhere, or if the Developer breaches its obligation to carry out the Rec Centre Works or pay Rec Centre Monetary Contributions under this Deed.
- 19.6 The amount of Security held by Council is to be indexed in the same way the Rec Centre Monetary Contributions are indexed to ensure that if Security is provided in respect of a Rec Centre Monetary Contribution, the Security equals the indexed amount of the Rec Centre Monetary Contribution remaining to be paid at all times.
- 19.7 Security cannot be provided under this clause 19 for any amount of the total Rec Centre Monetary Contributions payable under this Deed which exceeds the Estimated Costs and any such amount of Rec Centre Monetary Contributions must be paid by a Monetary Payment under clause 14.

20 Timing of Provision of Recreation Centre

- 20.1 The Developer must lodge a Development Application for the Development on 34 Walker St, including the Recreation Centre by 15 February 2018, and

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- the Developer must lodge the Rec Centre Modification Application before a Construction Certificate is issued for any ground floor slab.
- 20.2 The parties note that:
- 20.2.1 the Concept Design includes an increase in the Gross Floor Area for the Recreation Centre which will cause the Development of 34 Walker St to exceed the applicable floor space ratio control;
- 20.2.2 the Rec Centre Modification Application will not rely upon the reduction of Gross Floor Area in the balance of the Development on 34 Walker St to comply with the floor space ratio control; and
- 20.2.3 the Rec Centre Modification Application must therefore be supported by a request under clause 4.6 of the LEP to vary the floor space ratio control.
- 20.3 The parties acknowledge and agree that Council cannot and will not be fettered in the exercise of its functions as consent authority in assessment and determination of the Rec Centre Modification Application and, in particular, they acknowledge that, because the Rec Centre Modification Application requires a variation of the floor space control under clause 4.6 of the LEP, there is a real possibility that the Rec Centre Modification Application may not be approved.
- 20.4 If Rec Centre Modification Application is refused, or if it is approved in such a way as to materially alter the Concept Design, the parties agree that:
- 20.4.1 they will promptly meet to review this Deed and, in the case of a refusal, will use all reasonable endeavours to agree on an alternative design for the Recreation Centre that responds to any concerns raised by Council, in its role as consent authority, during its assessment and determination of the Rec Centre Modification Application; and
- 20.4.2 they may enter into interim arrangements and agreements in the meantime for the purpose of allowing the Development to continue while a further variation of this Deed is negotiated and, if relevant, an alternative design for the Recreation Centre is developed.
- 20.5 The Developer must commence construction of the Recreation Centre, within 24 months of the date of the grant of Development Consent for the Recreation Centre.
- 20.6 In the event that the Developer has not commenced construction of the Recreation Centre within 36 months of the date of the grant of the Development Consent referred to in clause 22.2, then despite any other provision of this Deed, Council may apply the Rec Centre Monetary Contributions to the construction of a facility similar to the Recreation Centre in another location within its local government area.

21 Change to Estimated Costs

- 21.1 Notwithstanding anything else in this Deed, and in addition to the ability for the Estimated Costs to be varied under clauses 1.4 and 2.10 of Schedule 10, the Parties may agree on a variation to the Estimated Costs.
- 21.2 A Party may act in its discretion in determining whether to agree to a variation to the Estimated Costs proposed by the other Party.

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- 21.3 A failure by a Party to agree to a variation to the Estimated Costs does not constitute a Dispute for the purposes of this Deed

22 Construction Schedule

- 22.1 Schedule 10 contains provisions regarding the construction and delivery of the Recreation Centre.
- 22.2 The Parties may, pursuant to clause 7 of this Deed, enter into further agreements in respect of the construction and delivery of the Recreation Centre.

Part 5 - Other Developer Obligations**23 Development Application to Include Recreation Centre**

- 23.1 The Developer must not lodge a Development Application for any Building on 34 Walker St, unless the Development Application seeks consent for the Recreation Centre.

24 Content of Development Applications

- 24.1 Any Development Application which the Developer lodges in respect of the Development must:
- 24.1.1 commit to the Sustainability Initiatives;
 - 24.1.2 propose the provision of CCTV including cabling and all associated infrastructure for the monitoring of public domain areas;
 - 24.1.3 propose the location of electricity substations servicing the Development either within the buildings comprising the Development or underground, other than access and ventilation points which shall be designed to ensure minimal intrusion into the public domain, and shall be designed in consultation with Council;
 - 24.1.4 propose the undergrounding of all services in the public footpath immediately adjacent to the Development and include evidence of consultation with relevant Authorities regarding the location and requirements for all services;
 - 24.1.5 include detailed BCA compliance reports;
 - 24.1.6 propose the establishment and maintenance of laneways by the Developer in perpetuity and easements to be registered on title to all laneways allowing public access to laneways; and
 - 24.1.7 propose the construction of a heliostat reflector on the building to be constructed on 6-14 Walker Street, Rhodes and be accompanied by a proposed maintenance manual in respect of that heliostat reflector.

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- 24.2 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of any conditions imposed on any Development Consent for the Development in respect of the matters listed in clause 24.1.
- 24.3 For the purposes of this clause **Sustainability Initiatives** means:
- 24.3.1 The initiatives included in Schedule 9;
- 24.3.2 the provision of a maximum of 1 car space per dwelling (excluding adaptable units, tandem and visitor spaces, and retail parking); and
- 24.3.3 offering a car share service or bulk public transport tickets to all purchasers of dwellings in the Development as agreed with Council.

25 Undergrounding of Services

- 25.1 The Developer must liaise with the Council regarding the timing of any public domain works to be carried out by Council on the footpaths and laneways adjoining the Development.
- 25.2 The Developer agrees to underground all services located at the street frontages of the Land that will be used in connection with the Development at its own cost, and must ensure that it has laid all services underground before any public domain works are carried out by Council.
- 25.3 The Developer acknowledges that Council will not carry out any public domain works unless and until the Developer has complied with this clause, and has provided evidence to Council that no Authority will require any further services in respect of the Development to be provided in the relevant footpaths and laneways.

26 Publicly accessible carparking

- 26.1 The Developer must ensure that any carparking within the Development which is proposed to service the Retail Premises or Commercial Premises within the Development is made publicly available.

27 Heliostat reflector

- 27.1 This clause applies if a heliostat reflector is required to be constructed on a Building on 6-14 Walker Street, Rhodes pursuant to a Development Consent.
- 27.2 The Developer is to register a Public Positive Covenant on:
- 27.2.1 if no Strata Scheme applies to 6-14 Walker Street, Rhodes, the title to that land,
- 27.2.2 if a Strata Scheme applies to 6-14 Walker Street, Rhodes which includes Common Property, the title to the Common Property in that Strata Scheme, or
- 27.2.3 if a Strata Scheme applies to 6-14 Walker Street, Rhodes which does not include Common Property, the title to each Lot in that Strata Scheme.

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- 27.3 The Public Positive Covenant referred to in clause 27.2 is to require the registered proprietor of the land or Lot, or the Body Corporate of the Strata Scheme, of the land burdened, as the case may be, to:
- 27.3.1 operate, maintain, repair and replace (as necessary) the heliostat reflector in perpetuity in accordance with any relevant Development Consent and any maintenance manual for the heliostat reflector approved by the Council from time to time, and
- 27.3.2 unless otherwise provided for in the maintenance manual,
- (a) take out all relevant insurances in respect of the heliostat reflector,
 - (b) permit the Council to enter onto the land burdened to inspect the heliostat reflector and carry out any works the Council considers necessary to repair, replace or maintain the heliostat reflector,
 - (c) comply with any reasonable direction of the Council to repair, replace or maintain the heliostat reflector,
 - (d) provide security to the Council to the Council's satisfaction,
 - (e) indemnify the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the covenantor's obligations in respect of the heliostat reflector except if, and to the extent that, the Claim arises because of the Council's negligence or default,
 - (f) make any changes to the maintenance manual as directed by the Council from time to time
- 27.4 The Public Positive Covenant referred to in clause 27.2 is to be registered before the issuing of the first Occupation Certificate in relation to the Building on 6-10 Walker Street.
- 27.5 Until such time as the Public Positive Covenant referred to in clause 27.2 is registered, the Developer is required to do the matters referred to in clause 27.3.1 and 27.3.2.
- 27.6 The Developer is to make two contributions into the Sinking Fund for the Strata Scheme for the Building containing the heliostat of \$25,000 each, the first of which is to be paid on the establishment of the Sinking Fund and the second of which is to be paid 12 months thereafter, to be applied towards maintenance of the heliostat.
- 27.7 The contributions to be made under clause 27.2 are to be in addition to any contributions which the Developer would, but for this clause, be required to make to the Sinking Fund.
- 27.8 The Developer is take whatever action is necessary to ensure that the contributions made into the Sinking Fund pursuant to this clause can only be and are only applied to the maintenance, repair and replacement (as necessary) of the heliostat. For the purposes of this clause:
- 27.8.1 **Body Corporate, Common Property, Lot and Strata Scheme** each have the same meaning as in the *Strata Schemes (Freehold Development) Act 1973*;

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27.8.2 **Sinking Fund** means a sinking fund within the meaning of the *Strata Schemes Management Act 1996*; and

27.8.3 **Public Positive Covenant** means a public positive covenant within the meaning of s88E of the *Conveyancing Act 1919* on terms to the satisfaction of the Council.

Part 6 – Dispute Resolution

28 Dispute resolution – expert determination

- 28.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- 28.1.1 the Parties to the Dispute agree that it can be so determined, or
 - 28.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 28.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 28.3 If a notice is given under clause 28.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 28.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 28.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 28.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 28.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

29 Dispute Resolution - mediation

- 29.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 28 applies.
- 29.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 29.3 If a notice is given under clause 29.2, the General Manager of each party (or equivalent executive) are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 29.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law

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Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.

- 29.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 29.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 29.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 7 - Enforcement**30 Acquisition of land required to be dedicated from Landowner**

- 30.1 If the Landowner does not dedicate land which it owns and which is required to be dedicated under this Deed at the time at which it is required to be dedicated, the Landowner consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 30.2 The Council is to only acquire land pursuant to clause 30.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Landowner to dedicate the land required to be dedicated under this Deed.
- 30.3 Clause 30.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 30.4 If, as a result of the acquisition referred to in clause 30.1, the Council is required to pay compensation to any person other than the Landowner, the Landowner is to reimburse the Council that amount, upon a written request being made by the Council, or the Council can recover the debt in a Court of competent jurisdiction.
- 30.5 The Landowner indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 30.6 The Landowner is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 30, including without limitation:
- 30.6.1 signing any documents or forms,
- 30.6.2 giving land owner's consent for lodgement of any Development Application,
- 30.6.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*, and

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30.6.4 paying the Council's costs arising under this clause 29.

31 Caveat to prevent sale of land to be dedicated

- 31.1 Without limiting any other provision of this Deed, the Landowners agree that Council may lodge a caveat over 34 Walker St, precluding any sale of that land, but only up until the time that this Deed is registered on the title to the Land.
- 31.2 If the Council lodges a caveat in accordance with clause 31.1, then the Council must immediately do all things reasonably required to ensure that the caveat does not prevent or delay the registration of:
- 31.2.1 this Deed;
- 31.2.2 any plan of consolidation or subdivision contemplated, required or permitted under this Deed or any Development Consent; or
- 31.2.3 any other dealing, required or permitted under this Deed or any Development Consent.
- 31.3 Council must act promptly and reasonably in discharging or releasing any caveat over any land in order to allow for a subdivision of that land to create a separate legal title for the land to be dedicated.
- 31.4 Council must promptly do all things reasonably required to remove the caveat from the title(s) of the balance of the land once a separate legal title is created for the land to be dedicated or once this Deed is registered on the title to the Land.
- 31.5 The Landowner is not to create any mortgage or charge over the land to be dedicated or grant any other interest in that land without the prior written consent of the Council which will not be unreasonably withheld.

32 Breach of obligations

- 32.1 If the Council reasonably considers that the Developer or Landowner is in breach of any obligation under this Deed, it may give a written notice to the Developer or Landowner:
- 32.1.1 specifying the nature and extent of the breach,
- 32.1.2 requiring the Developer or Landowner to:
- (a) rectify the breach if it reasonably considers it is capable of rectification, or
- (b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
- 32.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.

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- 32.2 Nothing in this clause 32 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer or Landowner, including but not limited to seeking relief in an appropriate court.
- 32.3 This clause is subject to the dispute resolution provisions in Part 6.

33 Enforcement in a court of competent jurisdiction

- 33.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 33.2 For the avoidance of doubt, nothing in this Deed prevents:
- 33.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
- 33.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 8 – Registration & Restriction on Dealings**34 Registration of this Deed**

- 34.1 The Landowners warrant that the consent of all persons whose consent is required to the registration of this Deed under s7.6(1) of the Act has been obtained.
- 34.2 The Parties agree to register this Deed for the purposes of s7.6(1) of the Act.
- 34.3 Not later than 10 days after the commencement of this Deed, the Landowner is to deliver to the Council in registrable form:
- 34.3.1 an instrument requesting registration of this Deed on the title to the Land duly executed by the Landowner, and
- 34.3.2 the written irrevocable consent of each person referred to in s7.6(1) of the Act to that registration.
- 34.4 The Landowner is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 34.5 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Land:
- 34.5.1 in so far as the part of the Land concerned is a Final Lot,
- 34.5.2 in relation to any other part of the Land, once the Developer and Landowner have completed their obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

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35 Restriction on dealings

- 35.1 The Developer and Landowner are not to:
- 35.1.1 sell or transfer the Land, other than a Final Lot, or
 - 35.1.2 assign the Developer's or Landowner's rights or obligations under this Deed, or novate this Deed, or
 - 35.1.3 assign any rights in respect of the Option Land, to any person unless:
 - 35.1.4 the Developer and Landowner have, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's or Landowner's rights or obligations under this Deed or in respect of the Option Land are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
 - 35.1.5 the Council has given written notice to the Developer and Landowner stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - 35.1.6 the Developer and Landowner are not in breach of this Deed, and
 - 35.1.7 the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 35.2 Clause 35.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

Part 9 – Indemnities**36 Risk**

- 36.1 The Developer and Landowner perform this Deed at their own risk and their own cost.

37 Release

- 37.1 The Developer and Landowner release the Council from any Claim they may have against the Council arising in connection with the performance of the Developer's or Landowner's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

38 Indemnity

- 38.1 The Developer and Landowner indemnify the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's or

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Landowner's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Part 10 – Other Provisions**39 Annual report by Developer**

- 39.1 The Developer is to provide to the Council by not later than each anniversary of the date on which this Deed is entered into a report detailing the performance of its obligations under this Deed.
- 39.2 The report referred is to be in such a form and to address such matters as required by the Council from time to time.

40 Review of Deed

- 40.1 The Parties agree to review this Deed every 5 years, and otherwise if either party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
- 40.2 For the purposes of clause 40.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 40.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 40.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 40.4 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.
- 40.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 40.1 (but not 40.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

41 Notices

- 41.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
- 41.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
- 41.1.2 emailed to that Party at its email address set out in the Summary Sheet.
- 41.2 If a Party gives the other Party 3 business days' notice of a change of its address or email, any notice, consent, information, application or request is

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only given or made by that other Party if it is delivered, posted or emailed to the latest address.

- 41.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 41.3.1 delivered, when it is left at the relevant address,
 - 41.3.2 sent by post, 2 business days after it is posted, or
 - 41.3.3 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 41.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

42 Approvals and Consent

- 42.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 42.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

43 Costs

- 43.1 The Developer is to pay to the Council the Council's costs not exceeding \$100,000.00 of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 60 days of a written demand by the Council for such payment.
- 43.2 The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 60 days of a written demand by the Council for such payment.

44 Entire Deed

- 44.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 44.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

45 Further Acts

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- 45.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

46 Governing Law and Jurisdiction

- 46.1 This Deed is governed by the law of New South Wales.
- 46.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 46.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

47 Joint and Individual Liability and Benefits

- 47.1 Except as otherwise set out in this Deed:
- 47.1.1 any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
- 47.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

48 No Fetter

- 48.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

49 Illegality

- 49.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

50 Severability

- 50.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 50.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

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51 Amendment

- 51.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

52 Waiver

- 52.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 52.2 A waiver by a Party is only effective if it is in writing.
- 52.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

53 GST

- 53.1 In this clause:
- Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.
- GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.
- GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.
- Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 53.2 Subject to clause 53.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 53.3 Clause 53.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 53.4 No additional amount shall be payable by the Council under clause 53.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.

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- 53.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 53.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 53.5.2 that any amounts payable by the Parties in accordance with clause 53.2 (as limited by clause 53.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 53.6 No payment of any amount pursuant to this clause 53, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 53.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 53.8 This clause continues to apply after expiration or termination of this Deed.

54 Explanatory Note

- 54.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 54.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed

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Schedule 1 Development Contributions

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| Column 1 Item | Column 2 Public Purpose | Column 3 Description of Development Contribution | Column 4 Timing |
|--|---|--|--|
| Part A - Monetary Development Contributions | | | |
| 1. Retail Gross Floor Area contribution | Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain</u> , the public purposes listed in Schedule 8 and in respect of any Retail Gross Floor Area contribution which is a SEPP Contribution, <u>the Roadworks – Additional, and then if any funds remain</u> , the public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as determined by Council in its discretion. | <p>\$700.00 for each square metre (or part thereof) of Gross Floor Area in the Development that is to be used for the purpose of Retail Premises at ground level of the Development.</p> <p>\$350.00 for each square metre (or part thereof) of Gross Floor Area in the Development that is to be used for the purpose of Retail Premises above ground level of the Development.</p> <p>\$350.00 for each square metre (or part thereof) of Gross Floor Area in the Development that is to be used for the purpose of Retail Premises below ground level of the Development.</p> | On a per Building basis prior to the issue of a Subdivision Certificate to create a lot on the Land which is proposed to contain a Building which contains floor space to be used for Retail Premises, and in respect of any Retail Gross Floor Area contribution which is a SEPP Contribution, prior to the issue of an Occupation Certificate for the floor space in respect of which that contribution is made. |

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| <p>2. Commercial Gross Floor Area contribution</p> | <p>Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8 and in respect of any Commercial Gross Floor Area contribution which is a SEPP Contribution, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as determined by Council in its discretion.</p> | <p>\$350.00 for each square metre (or part thereof) of Gross Floor Area in the Development that is to be used for Commercial Premises.</p> | <p>On a per Building basis prior to the issue of a Subdivision Certificate to create a lot on the Land which is proposed to contain a Building which contains floor space to be used for Commercial Premises and in respect of any Commercial Gross Floor Area contribution which is a SEPP Contribution, prior to the issue of an Occupation Certificate for the floor space in respect of which that contribution is made..</p> |
| <p>3. Residential Accommodation Gross Floor Area contribution</p> | <p>Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8.</p> | <p>\$574.00 for each square metre (or part thereof) of the part of the Additional Residential GFA in the Development (other than the Additional Residential GFA - SEPP) up to and including 25 floors that is used for the purposes of Residential Accommodation.</p> <p>\$1050.00 for each square metre (or part thereof) of the part of the Additional</p> | <p>On a per Building basis prior to the issue of a Subdivision Certificate to create a lot on the Land which is proposed to contain a Building which contains floor space to be used for Residential Accommodation.</p> |

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| | | Residential GFA in the Development (other than the Additional Residential GFA - SEPP) above 25 floors that is used for the purposes of Residential Accommodation. | |
| 4. Hotel Gross Floor Area contribution | Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8 and in respect of any Hotel Gross Floor Area contribution which is a SEPP Contribution, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as determined by Council in its discretion. | \$700.00 for each square metre (or part thereof) of the part of the Additional Residential GFA in the Development that is used for the purposes of a Hotel. | On a per Building basis prior to the issue of a Subdivision Certificate to create a lot on the Land which is proposed to contain a Building which contains floor space to be used for a Hotel and in respect of any Hotel Gross Floor Area contribution which is a SEPP Contribution, prior to the issue of an Occupation Certificate for the floor space in respect of which that contribution is made. |
| 5. Serviced Apartment Gross Floor Area contribution | Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8 and in respect of any Serviced Apartment Gross | \$700.00 for each square metre (or part thereof) of the part of the Additional Residential GFA in the Development that is used for the purposes of a | On a per Building basis prior to the issue of a Subdivision Certificate to create a lot on the Land which is proposed to contain a Building which contains floor space to be used for a Serviced |

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| | Floor Area contribution which is a SEPP Contribution, the <u>Roadworks – Additional, and then if any funds remain,</u> public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as determined by Council in its discretion. | Serviced Apartment. | Apartment and in respect of any Serviced Apartment Gross Floor Area contribution which is a SEPP Contribution, prior to the issue of an Occupation Certificate for the floor space in respect of which that contribution is made.. |
| 6. RRCF Contribution | Recreation Centre and, if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8 and in respect of any RRCF Contribution which is a SEPP Contribution, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as determined by Council in its discretion. | As set out in Schedule 2 | On a per Building basis prior to the issue of a Construction Certificate for any above ground construction of the relevant Building, and in respect of Stage 2 of the Development, any RRCF Contribution payable in respect of Retail Premises is to be paid prior to the issue of a Construction Certificate for the ground floor slab for any Building in Stage 2 containing Retail Premises, and in respect of Residential Accommodation, on a per Building basis, prior to the issue of a Construction Certificate for the Level 4 slab of the Building containing Residential Accommodation, and in respect of |

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| | | | any RRCF Contribution which is a SEPP Contribution, prior to the issue of an Occupation Certificate for the floor space in respect of which that contribution is made. |
| 7. Public Art Contribution | Public Art | \$600,000 | Prior to the issue of a Construction Certificate for the ground floor slab in Stage 2 of the Development |
| 8. Residential Accommodation Gross Floor Area – SEPP contribution | Recreation Centre (up to the Estimated Cost, including any increase in the Estimated Cost that has been agreed in accordance with clause 21 or as varied under clauses 1.4 and 3.2.3 of Schedule 10, provided that the Estimated Costs are not fully funded by other Monetary Development Contributions), and if any funds remain, <u>the Roadworks – Additional, and then if any funds remain,</u> the public purposes listed in Schedule 8, or open space and public recreation facilities within Rhodes, as | \$498.00 for each square metre (or part thereof) of the part of the Additional Residential GFA – SEPP that is used for the purposes of Residential Accommodation. | Prior to the issue of an Occupation Certificate for any floor space which is Additional Residential GFA - SEPP. |

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement



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Walker Street Development Pty Limited & Ors

| | | | |
|---------------------------------|--|--|--|
| | determined by Council in its discretion. | | |
| Part B – Works | | | |
| 9. Recreation Centre | Recreation Centre | Construction of community facilities including an indoor leisure centre and public carpark in accordance with the Concept Design and description at Schedule 5 and subject to the provisions of this Deed. | Prior to the issue of the last Occupation Certificate for the final Building in the Development. |
| | | | |
| Part C – Land Dedication | | | |
| 10. Land for Recreation Centre | Recreation Centre | Dedication to Council of the RC Stratum Lot | Prior to the issue of the last Occupation Certificate for the final Building in the Development. |

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Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement



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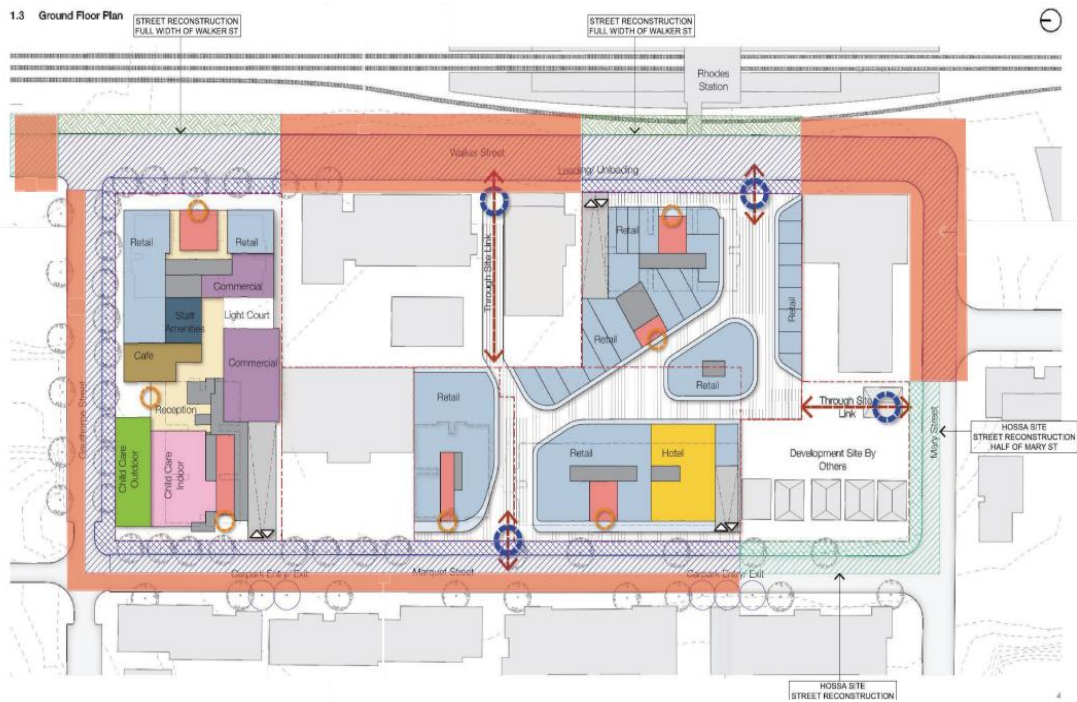
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Schedule 3 Roadworks - Additional

Station Precinct
Rhodes, Sydney

KEY:

= areas subject to "Roadworks - Additional"



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