

MAJOR PROJECT ASSESSMENT:
Concept Plan for Residential Development
Hilly Street, Mortlake
(MP10_0154)



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

March 2013

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Mortlake Consolidated Pty Ltd
RtS	Response to Submissions

Cover Photograph: Landscape Plan taken from the PPR, October 2012

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EXECUTIVE SUMMARY

Mortlake Consolidated Pty Ltd is seeking Concept Plan approval for a residential development at Hilly Street, Mortlake within the Canada Bay Local Government Area. The site is located within a former industrial precinct located on a peninsular, north and west of Breakfast Point. The site is zoned R1 General Residential under *Canada Bay Local Environmental Plan 2008*. The uses proposed are permissible with consent.

The Concept Plan originally sought approval for:

- A total of 39,340m² of gross floor area which equates to a floor space ratio of 1.42:1;
- A total of 15 building envelopes ranging in height from 3-9 storeys;
- Up to 402 apartments;
- Provision of 4,846m² of publicly accessible open space; and
- A car parking range of 484-725 spaces.

The Environmental Assessment was exhibited for 59 days between 4 October 2011 and 2 December 2011. The Department received 5 submissions from public authorities, including Canada Bay Council. A total of 130 public submissions were received, 106 (82%) were opposed to the development, 16 (12%) supported the development and 8 (6%) raised issues. The proponent undertook two community information sessions, one on 17 December 2010 and one during the exhibition period on 3 November 2011. Canada Bay Council also held its own community meeting on 7 November 2011, which was attended by 120 people.

A Preferred Project Report was submitted on 1 November 2012, responding to the issues raised in submissions and by the Department. The key changes made in the Preferred Project Report are a 882m² reduction in gross floor area, a 2/3 storey reduction in the height of the 9 storey building fronting Hilly Street, an increase in the foreshore building setback and a 1,021m² increase in the area of publicly accessible open space.

The Preferred Project Report was placed on the Department's website and key agencies were notified. The Department received a submission from Council, 3 agency submissions and 2 public submissions. The Preferred Project Report seeks approvals for:

- A total 38,458m² of gross floor area equating to a floor space ratio of 1.4:1;
- Retaining 15 building envelopes but reducing the heights to 3-7 storeys;
- Up to 391 apartments;
- Provision of 5,867m² of publicly accessible open space; and
- Provision of up to 702 car parking spaces.

The proposal has a capital investment value of \$144 million and will create up to 300 full time equivalent construction jobs.

Key issues considered in the assessment of the Concept Plan include:

- Density;
- Built Form;
- Residential Amenity;
- Open Space;
- Traffic and Transport; and
- Contamination.

The Department has assessed the merits of the Concept Plan, taking into account issues raised by the public and agencies. Key findings of the assessment include:

- The proposed additional density can be accommodated without unreasonable amenity impacts on the surrounding dwellings. The height, bulk and scale of the built form will be compatible with the surrounding area;
- A peer review of the various traffic studies has concluded that there is sufficient capacity within the local road network to accommodate the traffic generation of the proposed development, with no need or requirement for intersection upgrades; and
- The proposal provides substantial public benefit including the creation of public domain areas, including publicly and privately accessible areas of open space, pedestrian footpaths and through site links.

The Department concludes that the site is suitable for higher density residential development. The transition of the locality from an industrial to a residential precinct is supported, especially in the context of broader housing supply issues in the Sydney Metropolitan Area. Therefore, the Concept Plan is recommended for approval subject to conditions.

In accordance with the Minister's delegation of the 14 September 2011, the application is referred to the Planning Assessment Commission for determination as more than 25 objections have been received and Canada Bay Council objects to the application.

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1. BACKGROUND

1.1 The Site

Mortlake peninsula is located approximately 3.5 kilometres from Concord West railway station and 4 kilometres from North Strathfield railway station. Mortlake is a former industrial area located on a peninsula north and west of Breakfast Point. The peninsula is framed by the eastern foreshore of Majors Bay and the Parramatta River, within the Canada Bay Local Government Area.

The subject site consists of 24 fragmented allotments over 3 core sites, equating to a total area of 27,431m². The three core sites within the Concept Plan include:

- Site 1 – 10,483m²;
- Site 2 – 2,911m²; and
- Site 3 – 14,037m².

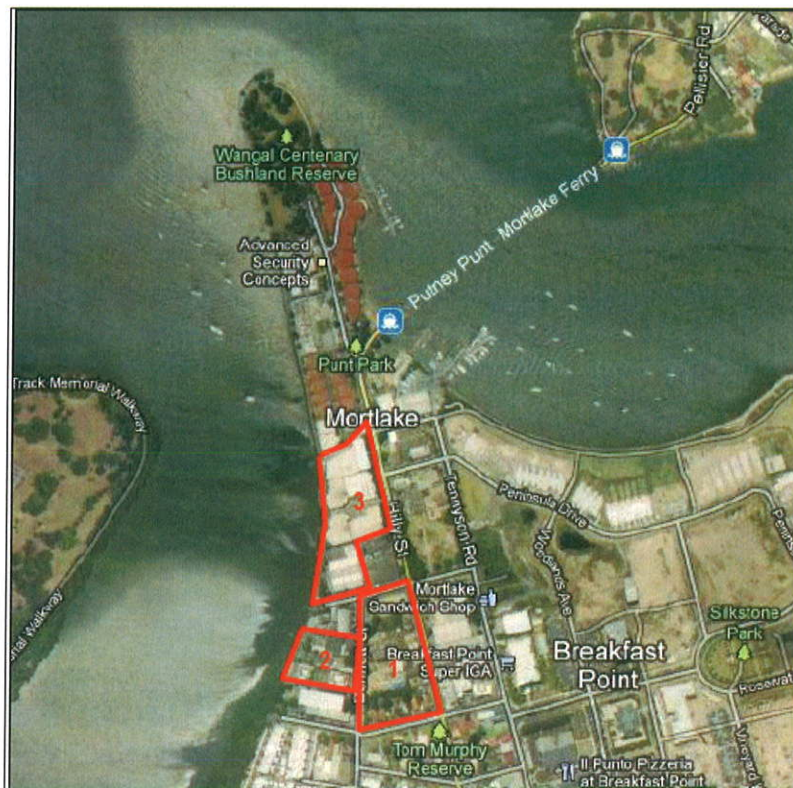


Figure 1: Project Location Source: (Google and Mecone Planning, September 2011)

1.2 Regional and Local Context

The locality is characterised by traditional small scale industrial developments on large sites, more recent medium density residential development and a mix of older detached residential development. The historic industrial land uses are slowly being transitioned to predominantly residential uses with increased density. This transition is consistent with the residential zoning of the peninsula.

Mortlake has foreshore access from Wangal Centenary Bushland Reserve and Parramatta River to the north, Breakfast Point to the east and Majors Bay to the west. Public foreshore access is not currently available on the site.

Mortlake adjoins the suburb of Breakfast Point (the former AGL gas site), which was predominantly a brown field redevelopment site. Breakfast Point has been remediated and redeveloped in recent years to a medium to high density residential neighbourhood. Breakfast Point is a master planned suburb, with a mixture of residential accommodation types from detached dwellings to residential flat buildings. The character of Breakfast Point varies from two storeys to nine storeys, with single dwelling footprints also a key feature.

Cabarita Park (to the east) and Majors Bay Reserve (to the west) are located within an 850 metre radius of the site. The Cabarita swimming pool is located east of the site and the Concord and Massey Park Golf Courses are also within 2 kilometres of the site. The site is within close proximity to a range of community services provided by private and public organisations including meeting halls, senior citizen centres, libraries and youth services.



Figure 2: Existing Site Buildings, fronting Hilly Street



Figure 3: Existing Light Industrial Buildings at 20 Hilly Street

2. PROPOSED CONCEPT PLAN

2.1 Project Description

The Environmental Assessment as originally submitted to the Department of Planning and Infrastructure sought approval for the following:

- The use of the site for the purpose of residential flat buildings and open space;
- Building envelopes for 15 residential flat buildings with varying heights between 3 and 9 storeys, with a maximum RL of 42.8;
- A floor space ratio across the site of 1.42:1 (GFA 39,340m²);
- Car parking rates resulting in a parking supply of between 484 and 725 spaces; and
- Landscaping and public domain works, with public open space equating to 4,846m².

2.2 Preferred Project Report

In response to issues identified by the Department during its assessment and also issues raised in the submissions received during the exhibition period, the proponent prepared and submitted a Preferred Project Report on 1 November 2012 (**Appendix B**). The key amendments made in the Preferred Project Report are summarised below:

- The height of the 9 storey building has been reduced by 2-3 storeys, with the Hilly Street frontage now 6 storeys, and a stepped building form with a 7th storey half level facing internally to the site;
- All proposed building envelopes remain within the exhibited RLs.
- The density of the proposal was reduced, with a floor space ratio reduction from 1.42:1 to 1.4:1. The GFA of the proposal was reduced by 882m² to a total of 38,458m²;
- The publicly accessible foreshore open space was increased. The foreshore building footprints have been revised to achieve minimum foreshore building line setbacks of 12m consistent with Council's foreshore building controls. This resulted in an increase of the foreshore open space by 594m² to 3395m²;
- There was a minor change to the alignment of the buildings in Precinct 1, with building 1A now having better address to Northcote Street. The façade realignment will also result in improved solar access for this building;
- An increase in the proposed parking rates to ensure greater consistency with *Canada Bay Development Control Plan*. There are fewer street trees to allow for a greater number of on-street parking spaces, and parking management measures are proposed to improve existing conditions;
- The eastern end of the through site link towards Majors Bay in Precinct 2 has been moved to the north and building 2D-2 is now located to the south of the through site link. Basement access to Precinct 5 has also been moved to the south to accommodate the minor change in alignment of the pedestrian access; and
- The site area was reduced as the Council owned land, including the small lane between Hilly Street and Bennett Street and the car park on the corner of Hilly Street and Edwin Street were removed from the proposal. Council advised that the lands required reclassification and accordingly formal owner's consent was not granted.

Table 1 provides a comparison between the original Concept Plan and the Preferred Project Report.

Table 1: Numerical Changes to Concept Plan

Aspect	Environmental Assessment	Preferred Project Original site area	Preferred Project Reduced site area
Site Area	27,781m ²	27,781m ²	27,431m ²
FSR	1.42:1	1.38:1	1.4:1
GFA	39,340m ²	38,458m ²	
No. Units	402	391	
Building Nos.	15	15	
Height	Up to RL 42.8	Up to RL 36.8	
Parking			
One bed	0.5-1 space	1 space	
2 bed	1-1.5 spaces	1.5 spaces	
3 bed	1.5-2 spaces	2 spaces	
Visitors	1/10 units – 1/5 units	1/5 units	
Public Open Space	4,846m ²	5,867m ²	
Deep Soil Zones	Not quantified	8,000m ²	

The revised Concept Plan as proposed in the Preferred Project Report is shown in **Figures 4 and 5**.

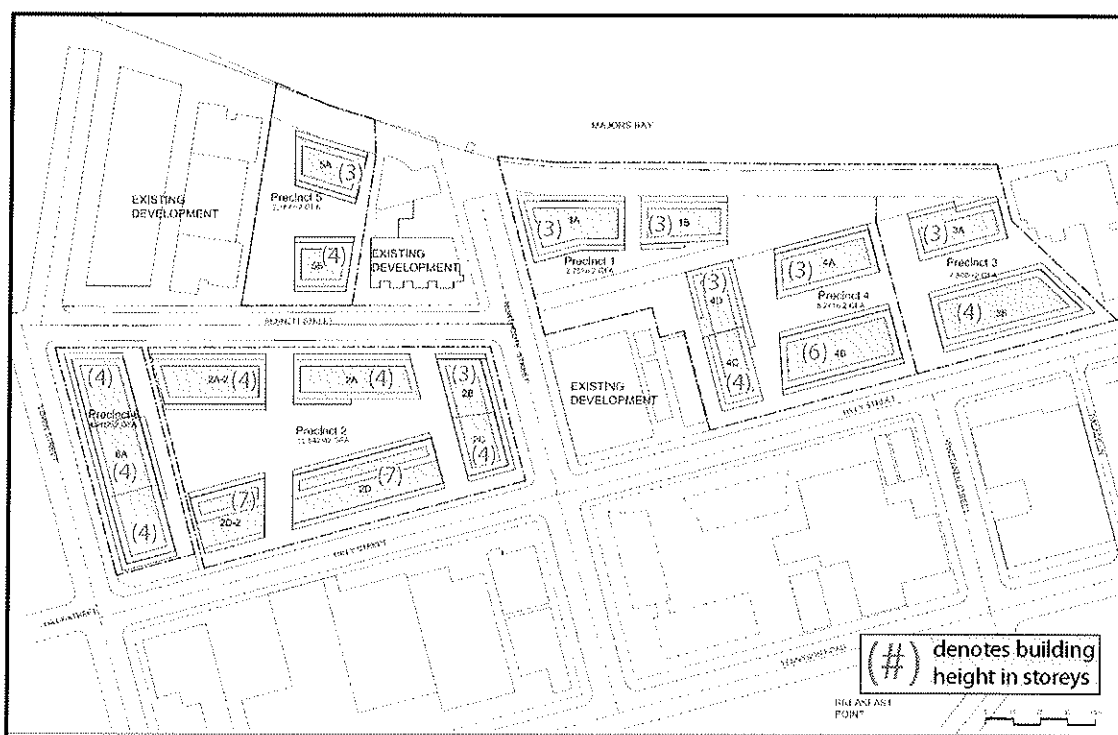


Figure 4: Project Layout Source: (PPR, 2012)

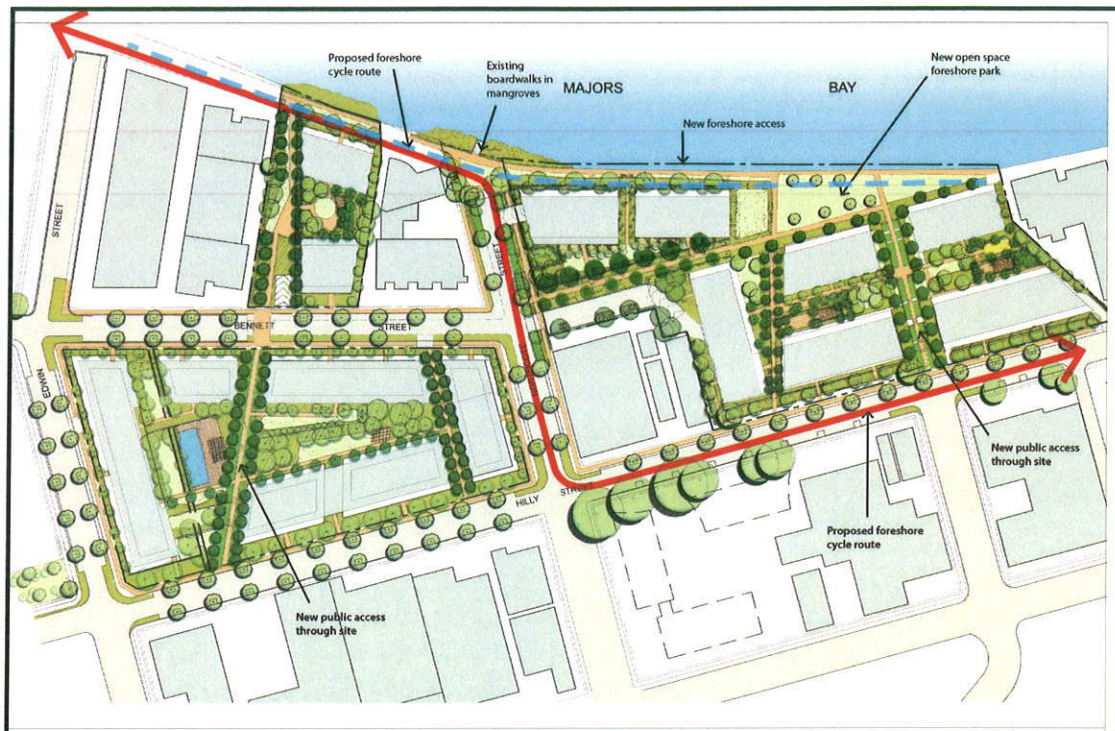


Figure 5: Indicative Concept Plan (Source: PPR, 2012)

2.3 Project Need and Justification

NSW State Plan (NSW 2021)

The NSW State Plan, *NSW 2021* aims to achieve improved urban environments and ensure sustainable development. The proposal is located within an established urban area close to existing social infrastructure, retail uses and employment opportunities, with reasonable access to public transport infrastructure.

There is planning merit in replacing the existing disused industrial buildings with residential flat development that has access and an outlook to Majors Bay and the foreshore. As outlined in **Section 5.1** there is also considerable benefit in the Concept Plan contributing to metropolitan wide dwelling supply in light of the revised population targets in Metropolitan Plan 2036 and also due to the city wide deficiency in dwelling commencements.

The proposal is consistent with the following targets of the State Plan:

- Improve housing affordability and availability (Goal 5) – The proposal will assist by contributing towards the delivery of 25,000 new dwellings in Sydney per year. Significant new development is required to ensure the target is met in future years; and
- Encourage job growth in centres close to where people live and to provide access by public transport (Goal 20) – The proposal will provide additional housing opportunities in a location that is accessible to the Sydney CBD and Ashfield train station by bus, which allows connection to other metropolitan destinations. Bus services also operate from the locality to Burwood, Leichhardt and the Sydney CBD.

Metropolitan Plan 2036

The Metropolitan Plan aims to sustainably manage growth, enhance Sydney's position in the global economy, achieve greater housing affordability, enhance liveability and ensure equity for future generations.

The Metropolitan Plan forecasts a population increase for Sydney of 1.7 million people by 2036, taking the total population to 6 million. As a result, Sydney will need 770,000 additional dwellings by 2036, a 46% increase on the current housing stock of 1.68 million dwellings.

The proposal will make an important contribution to the achievement of a number of the Metropolitan Plan targets as outlined in **Appendix E**. Specifically, the proposal will provide up to 391 new apartments in the locality and these apartments will have access to a desirable foreshore location with access to bus services to Ashfield, Burwood, Leichhardt and the Sydney CBD. A mix of apartment sizes and provision of adaptable dwellings allows for changing household demographics. The proposal also provides an opportunity to inject \$144 million into the economy and create up to 300 full time equivalent construction jobs.

The Plan refines Sydney wide targets for sub-regions and identifies the Inner West Subregion for an additional 35,000 dwellings and an additional 60,000 jobs by 2036. An analysis of the project's contribution to these targets is included in **Section 5.1**.

2.4 Concept Plan

Mortlake Consolidated Pty Ltd has applied for approval of a Concept Plan under Section 75M of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The Concept Plan seeks approval for key development parameters including building envelopes, heights, floor space ratio, open space, parking rates, traffic mitigation measures and pedestrian and cycle networks. Subsequent to the approval of the Concept Plan, the proponent will be required to lodge detailed Development Applications to be assessed by Canada Bay Council. Depending on the capital investment value of these Development Applications, they will be determined by the Council or the Joint Regional Planning Panel.

3. STATUTORY CONTEXT

3.1 Continuing operation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. Director-General's Environmental Assessment Requirements were issued for the proposal prior to 8 April 2011. The proposal is therefore a transitional Part 3A project.

This report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (of his delegate) may approve or disapprove of the carrying out of the project under Section 75O of the EP&A Act.

3.2 Major Project

The proposal was declared a Major Project under Part 3A of the EP&A Act as it met the nondiscretionary criteria for residential, commercial or retail projects valued in excess of \$100 million under the provisions of clause 13 of Schedule 1 of State Environmental Planning Policy (Major Projects) 2005.

3.3 Delegations

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission where an application has been made by persons other than by or on behalf of a public authority and also in cases where the relevant local council objects to the proposal and there are more than 25 submissions received in the nature of objection. In this case more than 25 objections have been received and Canada Bay Council objects and

accordingly the application is referred to the Planning Assessment Commission for determination.

3.4 Permissibility

The site is zoned R1 General Residential, under Canada Bay Local Environmental Plan 2008, and the proposed land uses are permissible with consent.

3.5 Environmental Planning Instruments

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The Department's consideration of relevant State Environmental Planning Policies and Environmental Planning Instruments is provided in **Appendix E**.

3.6 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land;*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes;*
 - (v) *the provision and co-ordination of community services and facilities; and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitat; and*
 - (vii) *ecologically sustainable development; and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State; and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The Concept Plan proposes orderly development that is permissible under the current planning controls. The proposed residential flat buildings exceed the Local Environmental Plan height and floor space ratio controls, however the development is strategically important for housing supply as discussed in **Section 5.1**.

The proposed pedestrian links through the site provide access to the foreshore, an opportunity currently not available with the existing industrial subdivision and built form pattern on the site. The proposed 12 metre wide foreshore strip provides separation of the development from the foreshore vegetation and will achieve long standing government objectives promoting public foreshore access. Further detailed assessments of any potential

impacts on the foreshore vegetation will be undertaken in the consideration of future Development Applications.

Having regard to the form and layout of the proposal, the consideration of environmental impacts and proposed mitigation measures, the Department is satisfied that the project is consistent with the objectives of the EP&A Act.

3.7 Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through application of the following principles;

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The following comments are made in regards to the projects consistency with the principles:

- **Integration Principle** – The proposal will have positive environmental effects by providing high density housing. The Department has considered the economic, social and environmental impacts of the proposal and concluded that there are no adverse or unmanageable impacts that would preclude the development from proceeding;
- **Precautionary Principle** – The replacement of the disused industrial buildings on the site with a residential flat development can occur without irreversible or serious environmental impacts;
- **Inter-Generational Principle** – The efficient and orderly development of the site provides the opportunity to contribute to the draft Inner West Subregional Strategy's dwelling targets, utilise existing infrastructure, and contribute to local and subregional economic growth through the creation of construction employment opportunities; and
- **Biodiversity Principle** – The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats.

The project is consistent with the key principles of ESD. A further detailed assessment against the ESD principles is provided in **Appendix E**.

3.8 Statement of Compliance

In accordance with Section 75I of the Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under Section 75H(3) of the Act, the Director-General is required to make an Environmental Assessment publicly available for at least 30 days. After accepting the Environmental Assessment, the Department publicly exhibited it from 4 October 2011 until 2 December 2011 (59 days) on the Department's website, and at the Department of Planning and Infrastructure, City of Canada Bay Council and Concord Library. The exhibition period was extended to 2 December 2011 following requests from Council and the community. The Department also advertised the public exhibition in the Inner West Courier, Sydney Morning Herald and Daily Telegraph on 4 October 2011 and notified landholders and relevant State and local government authorities in writing.

The Department received 135 submissions during the exhibition of the Environmental Assessment with 5 submissions from public authorities and 130 submissions from the general public and special interest groups.

The proponent undertook two community information sessions, one prior to the submission of the Concept Plan on 17 December 2010 and one during the formal exhibition period on 3 November 2011. Canada Bay Council also undertook its own community meeting on 7 November 2011, which was attended by 120 people. Officers from the Department also attended the community meeting to explain the Part 3A assessment process.

The Preferred Project Report was placed on the Department's website. Canada Bay Council and Transport for NSW made submissions to the Preferred Project Report along with 2 submissions from the public. The submission from Canada Bay Council was later accompanied by a Mayoral Minute.

A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submissions

Five submissions were received from public authorities. Road and Maritime Services, Sydney Water, Transport for NSW and the Office of Environment and Heritage did not raise objection to the proposal, but provided conditions or matters to be addressed. Canada Bay Council objected to the proposal. **Table 2** summarises the points raised in the submissions from the public authorities.

Table 2: Public Authority Submissions

Canada Bay Council objects to the proposal
<i>Environmental Assessment / Preferred Project Report submission</i>
<ul style="list-style-type: none">• It is desirable for the existing industrial buildings to be replaced with residential accommodation, and that the redevelopment is subject to an overall Concept Plan for the three sites.• The proposed height and FSR significantly exceed Council's 12m and 0.75:1 development standards. Council has been consistent in the application of this control, and the proposed variation to the development standards will have a precedent effect that will adversely impact on the future development, amenity and traffic generation of the peninsula.• The siting and orientation of buildings will result in a substantial massing of built form when viewed from Majors Bay and the public domain. The 9 storey building is obvious from the foreshore and public domain and is incompatible with the character of the foreshore.• There is inconsistency in the documentation showing 380 and 402 units and the developer has advised that the final numbers are yet to be resolved.• Council questions the proponent's economic feasibility analysis on the basis of the proponent's suggestion that the land was purchased on the assumption of an FSR of 1.5:1.

- The proposal has issues with the SEPP 65 principles of context, scale, built form, density, amenity and social dimensions. There are likely to be solar access issues for many of the proposed units and difficulties in satisfying SEPP 65 design principles.
- The proposed setback encroaches into the 12m Foreshore Building Line.
- The proposal would not meet the test under the Sydney Harbour Catchment SREP that the public good has precedent over the private good. Public access to the foreshore should be maximised in a similar way to Breakfast Point, which has substantial setbacks and good pedestrian access and cycle access along the foreshore.
- The impact of the proposal on the adjoining mangroves has not been assessed.
- There is a lack of clarity in relation to the use, provision and maintenance of the public open space and foreshore land together with its relationship to the mangroves. The public open space is not suitable for transfer to community ownership.
- The seawall is to be reconstructed to achieve a 100 year design life or an easement for public access to be provided along the foreshore and ownership to remain with developer.
- Providing higher densities in locations that do not have direct access to public transport is not a good planning practice.
- Previous studies by Council have indicated that the streets in the locality are currently near capacity. The proposed increased density will result in a proportional increase in traffic that will exacerbate traffic generation from the peninsula. It is not an accurate assessment to suggest that the traffic generation of the existing industrial and proposed residential development will be the same as a number of industrial sites are vacant.
- Concern regarding the width of parking spaces and bus lanes. The proposed shared zone does not comply with Roads and Maritime Service's standards.
- Concern regarding basement levels for flood design.
- Details on the design of internal drainage systems and the upgrade of external drainage systems.
- Public infrastructure is to be designed and constructed to Council's satisfaction, with plans, specifications and supporting information to be submitted for Council's acceptance prior to commencement of work to be transferred to Council.

Roads and Maritime Services does not object to the proposal

- Details on the access points to the site should be provided to the Department and Council for approval.
- Requirement to install/provide:
 - No stopping signs near driveways;
 - Construction Traffic Management Plan prior to Construction Certificate; and
 - All signposting at no cost to Roads and Maritime Services.
- Development to comply with relevant Australian Standards.
- Number of parking spaces to be provided to Department's satisfaction.
- Consideration to be given to the provision of pedestrian and cyclist facilities as part of the future Development Applications.
- Sustainable initiatives should be provided to encourage increased use of sustainable travel and reduced car dependency.
- Strongly recommended to consult with Transport NSW and STA on whether additional bus services can be provided/rerouted.
- All vehicles to enter and leave the site in a forward direction and be wholly contained within the site before being required to stop.

Office of Environment and Heritage does not object to the proposal

- No site auditor has been engaged to review the contamination investigations in the Environmental Site Assessment report and no commitment has been made as to when this will occur.
 - Any additional requirements arising from the audit process are to be undertaken by a suitably qualified and experienced consultant.
 - Following any additional investigations and preparation of remediation action plans, a site auditor is to prepare a site audit statement confirming the site can be made suitable, with another site audit statement submitted following the remediation and validation works.
 - Investigations and remediation works to be in accordance with relevant guidelines.
-

Transport for NSW does not object to the proposal

Environmental Assessment and Preferred Project Report submission

- Development should not impact on continued safe and efficient operation of buses in the area.
- Any changes to traffic and on-street parking arrangements needs to accommodate the parking, manoeuvring and turning of buses and any new works need to provide sufficient clearance.
- Noise mitigation measures should be incorporated in the development where required.
- Any formal requests for changes to services need to be made to Transport for NSW.
- The assessment of bus services in the Environmental Assessment and the traffic report are out of date as bus services changed in March 2010.
- The draft Statement of Commitments should be amended to require future Development Applications to provide car parking in accordance with the minimum and maximum rates in the traffic report.
- The draft Statement of Commitments should be amended to require proposed cycle routes adjoining the development to be consistent with relevant documents and standards and provided at developer's cost.
- Supports the provision of bicycle parking spaces in weather protected areas at grade, near building entrances as well as within buildings, and the Draft Statement of Commitments should be updated to reflect this.

Sydney Water does not object to the proposal.

- The proposed 9 storey building requires a 200mm drinking water main extension to connect to the existing 150mm main.
- The existing 150mm main in Bennett Street needs to be extended.
- Other parts of the site have access to existing 150mm mains that may require extension depending on the location of connection points.
- Existing 100mm main in Northcote Street has sufficient capacity for Precinct 1.
- Development exceeds wastewater capacity upstream and downstream of SP 090 and requires amplification of these sewer pipelines and dry weather storage at SP 090.
- Section 73 certificate will be required where specific works will be identified at developer's cost.

4.3 Public Submissions

A total of 130 submissions were received from the public. This included submissions from the following special interest groups:

- Canada Bay Greens; and
- Breakfast Point Residents' Group.

Of the 130 public submissions, 106 (82%) objected to the project, 16 (12%) supported the project and 8 (6%) did not state whether they objected or supported the project but raised issues with the notification of the application. The key issues raised in public submissions are listed in **Table 3**.

Table 3: Summary of Issues Raised in Public Submissions

Issue	Number of times raised	Proportion of submissions (%)
Adverse Traffic and parking impacts:	91	71
<ul style="list-style-type: none"> • Hilly Street can't cope with additional traffic; • Insufficient on-site parking; • Access from peninsula is difficult; and • A local traffic management study is required. 		
Inconsistencies with planning framework:	61	47
<ul style="list-style-type: none"> • Buildings are too high; • Density is excessive; and • Lack of justification to vary local controls 		
Existing character and potential precedent:	39	30

Issue	Number of times raised	Proportion of submissions (%)
<ul style="list-style-type: none"> Proposal will set a precedent; and Proposal is inconsistent with local character. 		
Inadequate services and facilities:	29	23
<ul style="list-style-type: none"> Proposal will impact hospitals, schools, child care; and There are inadequate local retail services. 		
Poor consultation process:	13	10
<ul style="list-style-type: none"> The notification area should be widened; and The notification period should be extended. 		
Public transport impacts:	13	10
<ul style="list-style-type: none"> Area is not well served by public transport; More services are required; and Vehicles queuing for the punt cause gridlock. 		
Enhancement to the area (support):	10	8
<ul style="list-style-type: none"> Will remove industrial facilities; and Enhance area through urban renewal. 		
Open space areas:	8	6
<ul style="list-style-type: none"> Form and function of open space; and Who will pay for open space maintenance? 		
Remediation concerns:	8	6
<ul style="list-style-type: none"> Watercourse and groundwater pollution; and Inadequate contamination assessment. 		
Other - Concern over emergency egress, PAC hearing requested (rather than a meeting), Council should determine the application.	59	46

The Department has considered the issues in submissions in its assessment as detailed in **Section 5** of this report.

4.4 Response to Submissions

The proponent provided a response to the issues raised in submissions which is included in the Preferred Project Report (see **Appendix B**).

The Preferred Project Report was not formally exhibited but was placed on the Department's website for information. Two additional public submissions were received in response to the Preferred Project Report, including one from the Breakfast Point residents group. The public submissions raised concerns similar to those raised in the initial exhibition period including traffic, contamination, precedent, density and overdevelopment.

Canada Bay Council and Transport for NSW provided supplementary submissions, with the issues summarised in **Table 2** above.

5. ASSESSMENT

The Concept Plan contains a broad framework for the redevelopment of the site. The Department considers the key environmental assessment issues for the project to be:

- Density;
- Built Form;
- Residential Amenity;
- Open Space;
- Traffic and Transport; and
- Contamination.

5.1 Density

Density is a key assessment issue for the project. Canada Bay Council's planning controls recognise the site as being suitable for medium density residential development and residential flat buildings are a permissible use. The Concept Plan however seeks approval for a density of development greater than that currently permitted. The proposed density and its potential impacts were a key concern raised in submissions.

Approval is sought for an overall floor space ratio of 1.4:1 (GFA 38,458m²), which exceeds the Canada Bay Local Environmental Plan 2008 floor space ratio control of 0.75:1. The floor space breakdown across the site is as follows:

- Site 1 – 20,452m² (1.95:1);
- Site 2 – 2,167m² (0.74:1); and
- Site 3 – 15,840m² (1.13:1).

Proponent's justification

The proponent considers that the additional density can be accommodated across the site without adverse amenity impacts and is consistent with approved densities in the area. The proponent further argues that a floor space ratio of 0.75:1 does not provide a feasible development outcome. In fact, the proponent suggests that it is more feasible to retain the existing commercial and industrial buildings on the site, as this offers the 'highest and best use' of the land, which arguably maintains the existing land use conflicts whereby industrial land abuts residential zoned land.

Council's view

Council opposes the proposed floor space ratio on the basis that it is double that prescribed by the Canada Bay Local Environmental Plan, it sets an undesirable precedent in the locality, and adversely impacts on the future development and traffic generation of the peninsula. Compliance with the maximum floor space ratio control is important to ensure that cumulative traffic impacts on the road network are managed.

Council questions the proponent's economic feasibility analysis on the basis of previous correspondence from the proponent that the land was purchased on the assumption of a floor space ratio of 1.5:1 and therefore based on an inflated price based on a floor space ratio above that in the Canada Bay Local Environmental Plan.

A number of public submissions shared Council's concerns with the proposed density.

Department's consideration

The Department supports the provision of increased residential density on sites that are accessible to public transport and can provide a high level of amenity to future residents, subject to a full merit assessment of potential impacts. The Department does not consider the economic feasibility of the project to be a relevant matter for assessment.

The site is serviced by bus services to Ashfield, Burwood, Leichhardt and the Sydney CBD. The site provides an excellent opportunity to provide higher density housing within a foreshore setting, being a highly desirable location for the incoming population.

The draft Inner West Subregional Strategy identifies a minimum housing target of 10,000 extra dwellings for the Canada Bay Local Government Area. The Metropolitan Plan for Sydney 2036 updates the minimum housing target for the Inner West Subregion. The updated housing targets for each local government area are not currently available. If the existing allocations are applied, the Canada Bay Local Government Area will be required to provide 12,000 dwellings by 2036.

The Canada Bay Council Local Planning Strategy indicates the development potential under Council's planning controls would meet the required housing target of 10,000 additional dwellings (with capacity for an additional 10,350 dwellings), this would however fall short of the likely targets under the Metropolitan Plan. The ability to meet the Inner West Subregional Strategy minimum housing targets should not preclude the site from being considered for higher density residential development. The development of appropriate sites for additional higher density housing is a key component in meeting the Sydney wide metropolitan housing demand and also the anticipated cumulative shortfall in the inner west subregion.

In this regard, it is considered that the site is strategically well located to provide additional density within the inner west subregion. The site is situated in a desirable foreshore location with reasonable access to public transport in an area that is experiencing a significant transformation from industrial land uses to higher density residential land uses.

In considering the proposed density, the Department has also considered:

- Built form and resulting amenity impacts;
- Traffic impacts on the surrounding road network; and
- Provision of adequate open space.

Built form, open space and traffic issues are assessed in **Sections 5.2, 5.4 and 5.5** respectively. The built form assessment concludes that the proposed buildings are contextually appropriate on the site and will not cause any unreasonable amenity impacts on the surrounding area. The open space assessment identifies that the development will provide a series of open space areas suitable for passive recreation. The traffic assessment undertaken by an independent traffic expert concludes that the surrounding traffic network will continue to operate adequately. Based on the analysis of the key issues relating to density, the Department considers that the site provides an excellent opportunity to secure additional housing.

5.2 Built Form

Built form is a key consideration in the assessment of the proposal. In this instance the built form is most appropriately tested through an assessment of:

- Urban Design and Layout;
- Height;
- Visual Impact; and
- Overshadowing.

Urban Design and Layout

The proposed building envelopes must respond to the site and provide an appropriate interface to the street and waterfront, respect the topography, as well as allowing future dwellings to have a high level of amenity.

The 15 buildings are located around the edges of the site with the internal portions of the site used for communal open space, publicly accessible open space and pedestrian connections to the foreshore. The amended scheme provided with the Preferred Project Report adequately addresses the concerns raised during the exhibition process by:

- providing a 12 metre setback to the waterfront, consistent with Council's foreshore building line controls;
- repositioning the buildings on the waterfront to align with the foreshore line to be consistent with other development around Majors Bay;
- maintaining 3 storeys along the waterfront, with no increase in building heights across the site;
- reducing the 9 storey building on Hilly Street to 6-7 storeys and spreading the height and floor space across the site whilst maintaining a variation of building heights; and
- retaining the through-site and visual links from Hilly Street and Bennett Street to the water.

The Department considers the amended layout is a good response to the site's urban context and it acknowledges the waterfront location. The larger buildings are located towards the primary street with smaller and narrower buildings stepping down towards the waterfront. This graduation in building heights and form responds to the site's topography and provides a transition in building scale towards Breakfast Point when viewed from the water and surrounds. It also allows for view sharing from within the site.

The Department also supports the strong built edge which is formed along surrounding streets with perimeter block development and other linear buildings aligned along streets. This is consistent with other recent residential development in Mortlake, including 13 Hilly Street (refer **Figure 8** below). The proposal also includes clear pedestrian and through-site links that extend from the existing street network towards the waterfront. The alignment of the proposed pedestrian links complements the grid-like street network of the area. Overall, the Department considers the revised proposal provides an appropriate urban design response to the site.

Height

The site is identified in the Canada Bay Local Environmental Plan 2008 as being within 'Area M', which has a maximum height of 12 metres. All of the proposed buildings exceed the 12m height limit with the maximum height being 7 storeys or 36.8 metres.

The buildings with a maximum height of 3 and 4 storeys would ordinarily comply with Council's control but exceed the 12 metre height limit due to each building including a plant and articulation zone.

As part of the assessment process, the proponent reduced the height of the 9 storey building by 2/3 storeys, with the Hilly Street frontage now at 6 storeys and a stepped built form with a 7th storey half level facing internally to the site.

The Preferred Project Report proposes no increase in the height of any buildings and all buildings remain within the exhibited RLs. Buildings 2C, 4B and 3B are able to provide an additional half storey between the Environmental Assessment and Preferred Project Report (which faces internally to the site) without a corresponding increase in height where examination of the site RLs and the slope of the site has determined that an additional level could possibly be accommodated.

A summary of the proposed heights is provided in **Table 6** below:

Table 6: Proposed Building Heights

Building	Exhibited Height (storeys)	Proposed Height (storeys)	Proposed Height RL AHD (topmost level)	Proposed Height RL AHD (plant/roof zone)
1A	3	3	12.3	15.3
1B	3	3	12.3	15.3
2A	4	4	16.2	19.2
2A2	4	4	19.2	22.2
2B/2C	Part 3/ 4	Part 3/ 4	Part 13.2/ 17.7	Part 16.2 / 20.7
2D	Part 8/ 9	Part 6/ 7	Part 27.8/ 33.8	Part 30.8/ 36.8
2D2	Part 8/9	Part 6/ 7	Part 27.8/ 30.8	Part 33.8 / 36.8
3A	3	3	12.3	15.3
3B	4	4	17.5	20.5
4A	3	3	12.3	15.3
4B	6	6	23.5	26.5
4C/4D	Part 3/ 4	Part 3/ 4	Part 13.1/ 17.5	Part 16.1/ 20.5
5A	3	3	12.3	15.3
5B	4	4	15.3	18.3
6A	4	4	Part 20.8/ 26.8	Part 23.8/ 29.8

Proponent's justification

The scheme provides a built form where lower rise forms are located on the western side of the development adjoining the foreshore. To the eastern boundary fronting Hilly Street, taller buildings are proposed which are compatible with surrounding developments. The proponent indicates that increases in heights above Council's controls will provide benefits in amenity by allowing the following:

- Optimisation of views and sightlines through the site;
- Providing transition from higher development along the ridge line to the foreshore;
- Providing a transition between Breakfast Point and the proposal (with Breakfast Point consisting of a higher development); and
- A height and scale that is modest in contrast with the Breakfast Point development.

Council's views

Council opposes the proposed heights on the basis that:

- Strategic planning for the area including the Canada Bay Local Environmental Plan 2008 and the Mortlake Planning Study 1999 recommend substantially lower heights. The later recommended maximum heights for the subject site and surrounds of 8m and 12m with a maximum floor space ratio between 0.5:1 and 0.75:1;
- The proposed heights and floor space ratio is likely to set a precedent that will adversely impact on future development and traffic generation of the peninsula;
- There is limited access to public transport on the site to justify the proposed height and floor space ratio increases; and
- The proposed nine storey building is potentially incompatible with the character of the foreshore.

Department's consideration

In response to submissions made during the exhibition period regarding the height of the proposal, the proponent developed a number of options to decrease the height of the 9 storey building on Hilly Street and re-distribute or increase heights of various other buildings within the development. The proponent met with the Department to outline the changes to the original scheme and present an options analysis. The proponent subsequently determined that no additional height would be placed on the exhibited building envelopes, and hence the built form presented in the Preferred Project Report proposes a reduction of

building height along Hilly Street but does not seek any corresponding increases in height across the site (**Figure 6**).

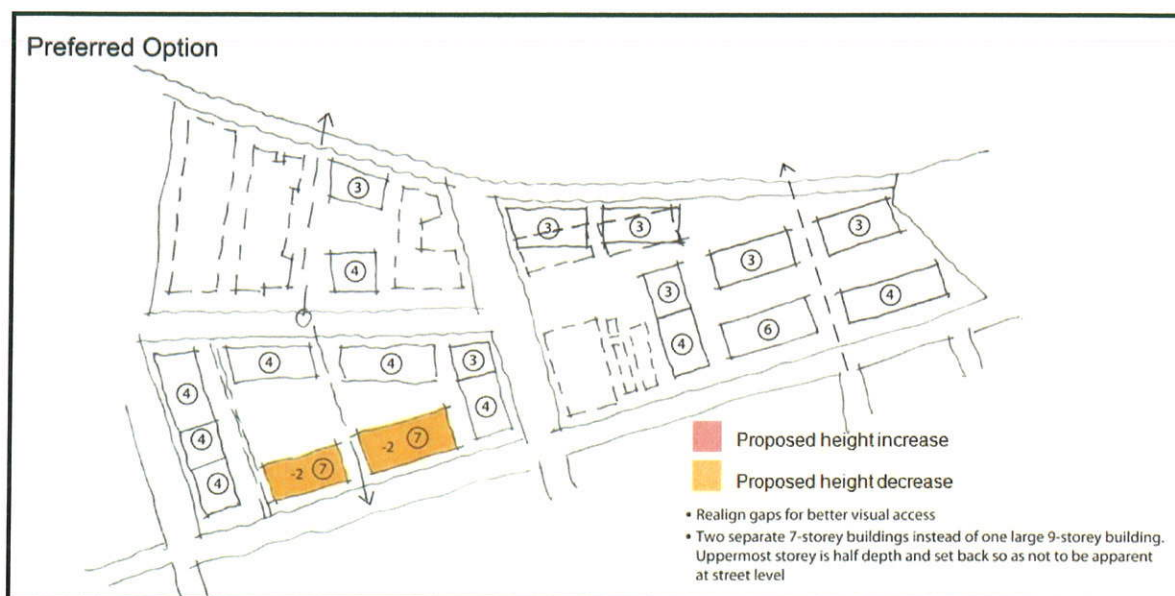


Figure 6: PPR Preferred Option Source: (PPR, 2012)

The Department considers the revised modulation of heights across the site to be a positive urban design outcome. The Preferred Project Report maintains the variation in height of the original proposal to achieve an appropriate built form. The development provides an appropriate transition in building height across the site, with a lower scale maintained closer to the foreshore whilst achieving variation at the Hilly Street frontage. The revised scheme ensures that the tallest buildings are located landwards at the south eastern edge of the site where they are compatible with the existing higher density built form. This spatial arrangement of buildings ensures that the significant view corridors within the site and from the public domain are enhanced, and that views of the site are contextualised against the backdrop of existing surrounding built form.

The Department has also considered how the proposed height responds to the existing and future character of the area. Cox Richardson Architects has prepared 'sections' demonstrating the contextual nature of the built form and how it responds to the existing and future character of the area under approved Development Applications (**Figure 7**).

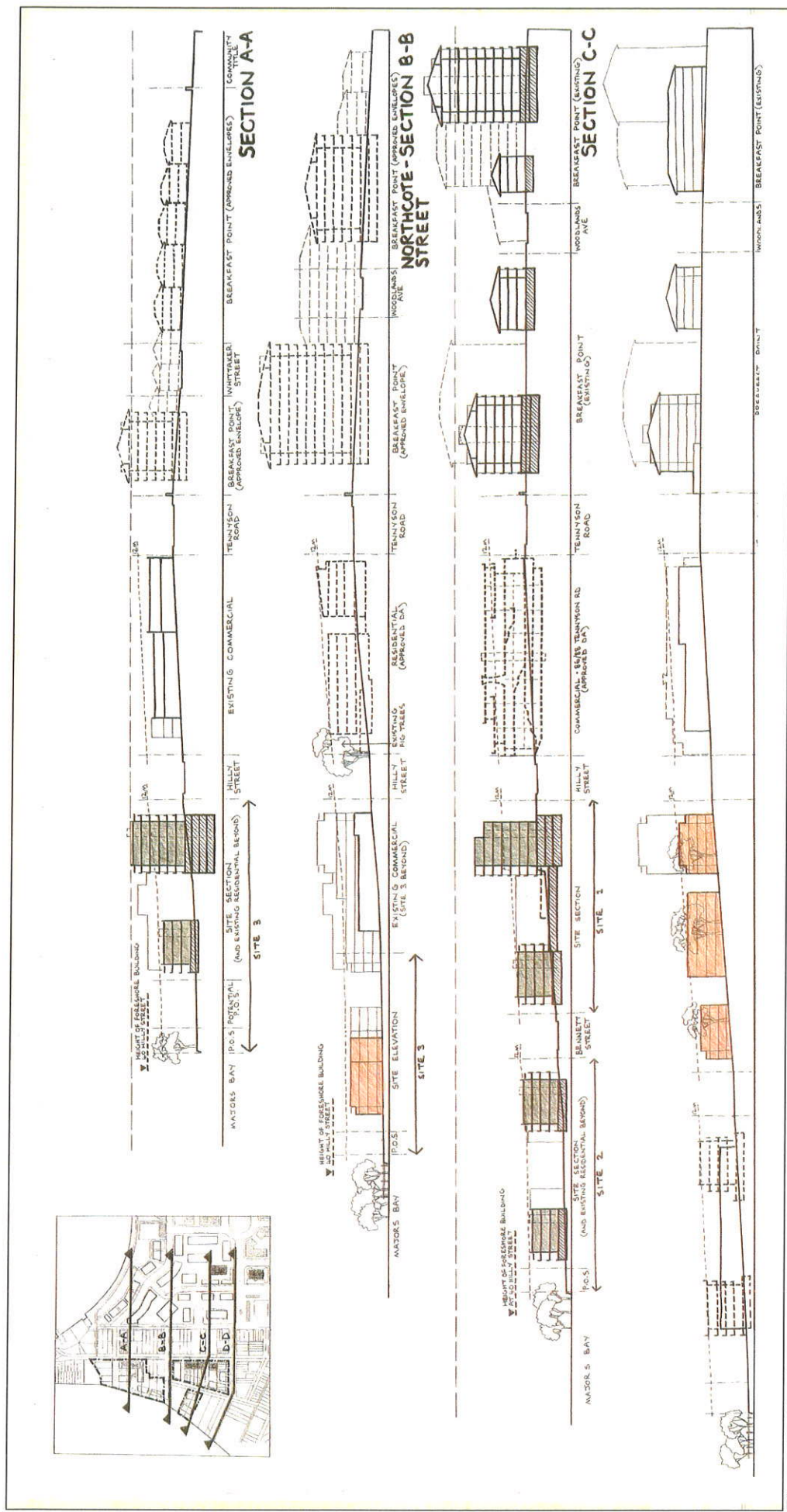


Figure 7: Site Section showing relationship to surrounding development (Source: PPR, 2012)

The tallest proposed building element of 6/7 storeys is congruous with surrounding existing and proposed developments given that the existing and proposed heights in the locality is in the order of 3 to 9 storeys.

The overall scale of the proposal is also lower than the 9 storey buildings in the Breakfast Point development. **Figure 8** shows an existing 5/6 storey building on the corner of Hilly and Northcote Streets, directly adjoining the site, which provides a direct context for the revised building heights. In light of the above, with the proponent's reduction of the 9 storey element on Hilly Street to 6/7 storeys, the Department considers the proposed height to be appropriate and more reflective of the local context.



Figure 8: Corner of Hilly and Northcote Street, adjoining the site – 6 storeys

Figures 10-13 below also demonstrate the massing of the proposed envelopes (shaded grey) as sympathetic with the current and approved built form characteristics, and lower than existing and proposed Breakfast Point envelopes (shaded brown) which are 3 – 9 storeys in height. Having regard to the above analysis the Department considers that the proposed building envelopes facilitate built form outcomes appropriate to, and which capitalise on, the site's location and context.

The layout of the site, including internal pedestrian connections and perimeter block arrangement, has been designed to reflect the surrounding street pattern and 'urban grain', and to preserve existing view corridors to and from the water. The Massing Study submitted with the proposal demonstrates that view corridors and existing visual focal points are to be retained and will not be undermined by the proposal. Therefore, the Department considers the revised proposal results in an acceptable building height for the redevelopment of the site.

Visual Impact

The redevelopment of the site will lead to a change in the visual relationship with the surrounding area by replacing the existing and run down former industrial sites with new residential developments.

The proposal is consistent with the Planning Principles of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, particularly in relation to the visual impacts of development when viewed from the harbour. As part of the Preferred Project Report, key viewpoints were studied by the proponent (refer **Figures 9-13**). These viewpoints are taken from the public domain, including heritage sites. The proposed built form at Majors Bay responds positively to these views as demonstrated in the analysis at **Appendix F** and which demonstrates:

- From some vantage points, views of the site are obscured by mangrove vegetation;
- The proposal does not dominate the skyline;
- The development fits within its local context. In particular, it appears lower in scale than the Breakfast Point development, which generally forms a backdrop to the proposed building envelopes;
- The proposal is compatible with its foreshore location and surrounding context. The proposal seeks to enhance the waterway as a natural asset through setting back development along the foreshore and providing public foreshore zones along the entire frontage, which is a significant improvement on the existing situation; and
- New and enhanced views through the site are provided along existing streets and between the proposed building envelopes, where at present they do not exist.

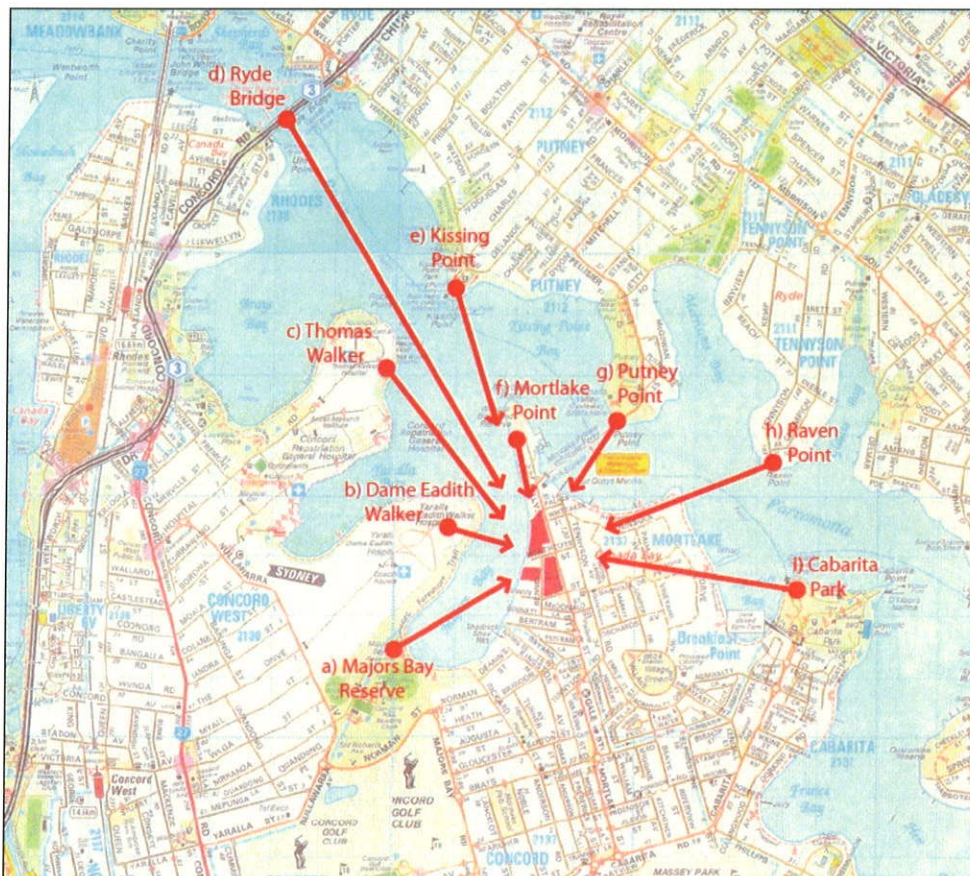


Figure 9 – View Point Locations (Source: Cox Richardson Design Report, PPR, 2012)

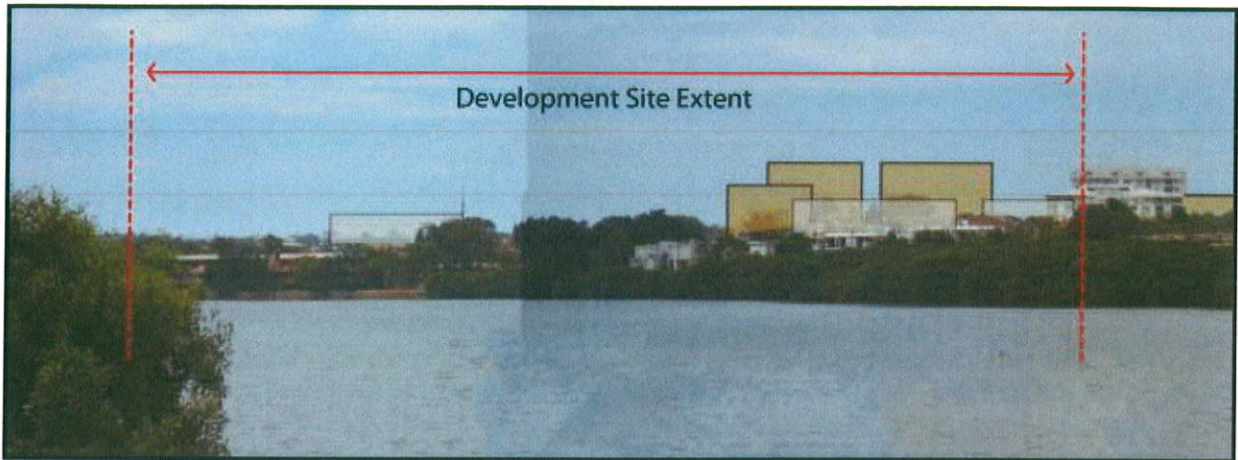


Figure 10 – Massing Study viewed from Majors Bay Reserve Source: (PPR, 2012)

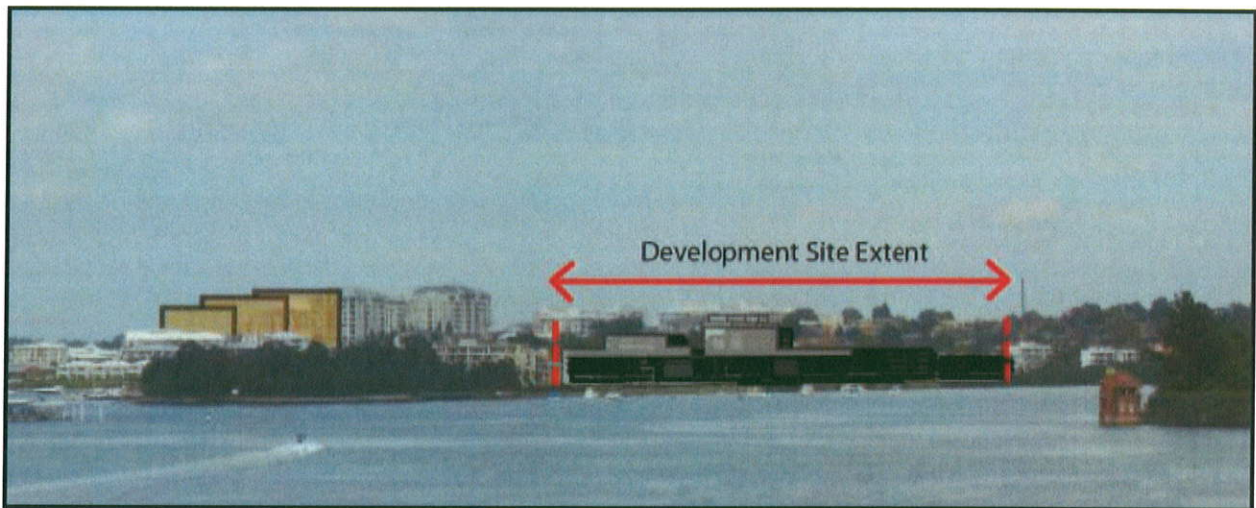


Figure 11 – Massing Study viewed from Ryde Bridge Source: (PPR, 2012)

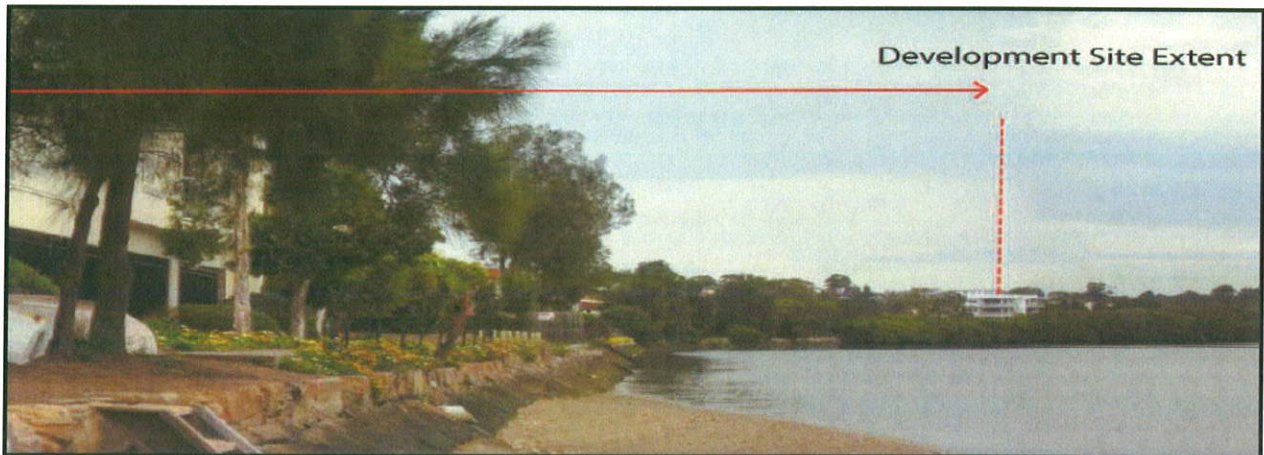


Figure 12 – Massing Study viewed from Thomas Walker Hospital, Rocky Point
Source: (PPR, 2012)

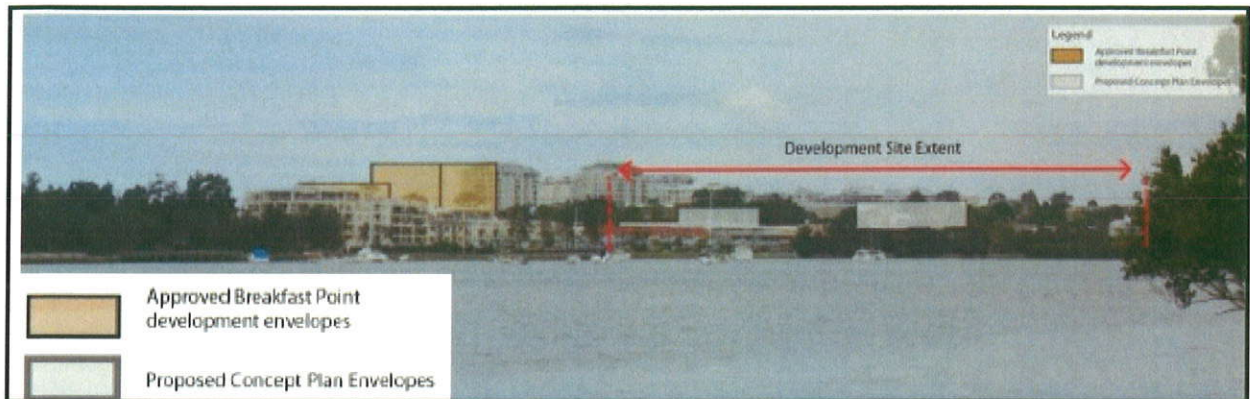


Figure 13 – Massing Study viewed from Thomas Walker Hospital, Rocky Point Source: (PPR, 2012)

The Department requested revised photomontages and street sections for Hilly Street to illustrate the amendments in the Preferred Project Report. **Figure 14** below shows the different building forms where the height has been reduced on Hilly Street. The reduction in height will reduce the visual impacts of the building and ensure that there are no adverse impacts on the public domain and nearby residents.

Overall, the Department considers that the revised proposal will have an acceptable visual impact. When viewed from middle and long range viewpoints the buildings are compatible in height with surrounding developments. The stepping of the buildings creates an appropriate transition to the foreshore, and a building pattern which reflects the topography. At the street level, the height of the buildings varies in accordance with the street hierarchy and will create a comfortable street environment having regard to the road widths.

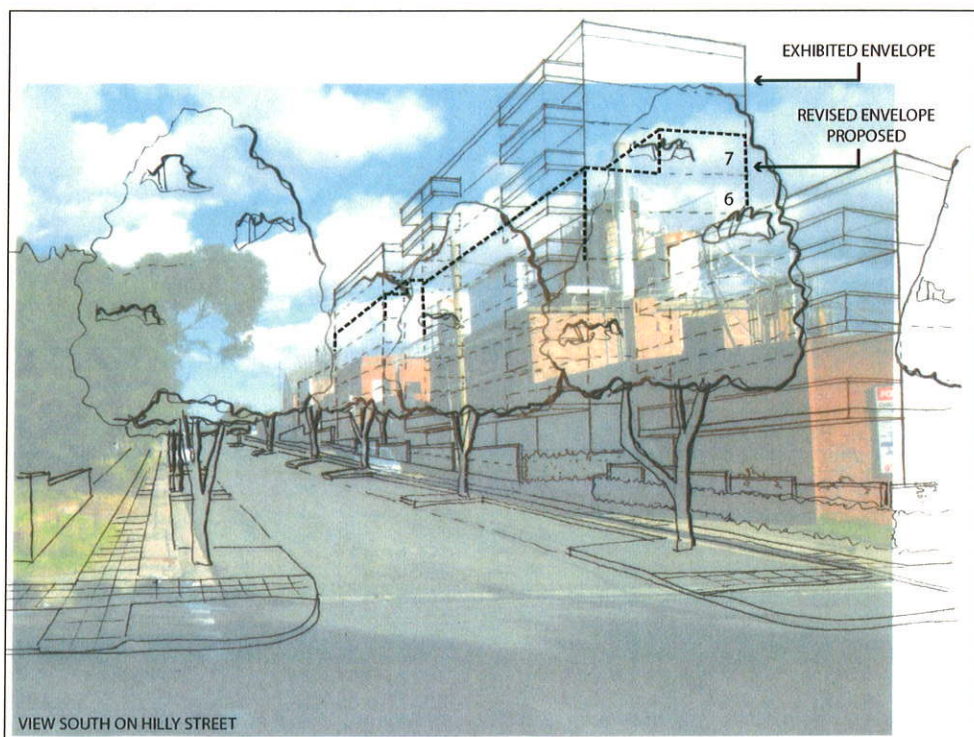


Figure 14: Revised Hilly Street Montage Showing Part 6/Part 7 storey building (Source: PPR, 2012)

Overshadowing

The Department has reviewed the Preferred Project Report's shadow analysis. Between 9am and midday on June 21 there are no significant shadows cast on neighbouring residential properties. The resultant shadows during this time period are on public roads and the foreshore open space area. The foreshore open space will receive solar access from around 11am and for the remainder of the day.

Shadows created by the proposed new buildings are principally contained within the site from 11am onwards. There are some minor shadow impacts to properties to the south west on Bennett Street at 9am, though this building is currently a remnant commercial/industrial building. If this site were developed in the future, the shadow diagrams show that as the shadow moves throughout the day, different apartments in any future redevelopment would be capable of achieving 3 hours of sunlight.

In the mid afternoon the proposed development impacts on the residential uses immediately to the south of the site and properties to the south east. Shadows to the south east, affecting disused industrial properties, have substantially lessened in the Preferred Project Report due to the reduction in the height of the proposed buildings on Hilly Street. The extent of shadowing now only occurs at 3pm in mid-winter and within the front setback area of these sites. For the residential properties to the south, overshadowing will occur for a short period, either at 9am or 3pm, and is contained within the front setback area of these properties. The properties benefit from direct sunlight for the remainder of the day.

The shadow analysis used in the Department's assessment, has been modelled on the proposed building envelopes. The Concept Plan building envelopes represent a notional zone for all built form elements including balconies, plant, railings, stair overruns, but excluding sun control devices, architectural design features and awnings. When detailed building designs are developed with future Development Applications, articulation of the building envelopes are likely to reduce the extent of shadow impacts.

The Department also notes that detailed shadow studies and diagrams will be required with each subsequent Development Application for this development. Based on the above analysis the Department is satisfied with the overshadowing impacts of the Concept Plan as the adjoining properties will receive more than 3 hours sunlight in mid-winter.

5.3 Residential Amenity

The Preferred Project Report demonstrates the ability of the proposed building envelopes to meet the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings and the requirements of Residential Flat Design Code at future Development Application stage. The Preferred Project Report and **Appendix E** of this report provide an assessment against State Environmental Planning Policy No. 65 and the Residential Flat Design Code.

The amenity impacts of the proposal on adjoining and proposed building envelopes have been assessed as satisfactory as discussed below:

Building Separation and Privacy

The Preferred Project Report has demonstrated compliance with the recommended building separation distances under the Residential Flat Design Code. In some buildings, this compliance is based on the assumption of some facades being treated without openings to habitable rooms (refer to **Figure 15**). This is an accepted design feature but requires careful treatment of facades so they do not present as an unattractive blank wall. Architectural treatments, articulation and landscape screening would all be appropriate measures to ensure the attractive presentation of these walls. A Further Assessment Requirement (No. 9) is recommended to ensure the treatment of facades is addressed appropriately at the detailed Development Application stage.



The Urban Design Report (Cox Richardson) submitted with the Preferred Project Report includes a method of solar access analysis to model the likely attainment of solar access for the development at the detailed Development Application stage.

NSW Government
Department of Planning & Infrastructure

Table 7: Predicted Solar Access (winter solstice)

Site	Precinct	Building	% of apartments that achieve 3 hours of sunlight	% apartment in precinct that achieve 3 hours of sunlight
1	2	2A	100%	
	2	2B	100%	
	2	2C	68%	
	2	2E	100%	
	6	6A	69%	
	2	2D	42%	
				74%
2	5	5A	90%	
	5	5B	100%	
				95%
3	3	3A	15%	
	3	3B	78%	
	4	4A	19%	
	4	4B	72%	
	4	4C	67%	
	4	4D	75%	
	1	1A	94%	
	1	1B	92%	
				67%
% of total apartments which achieve 3 hours sunlight				72%

(Source: PPR, 2012)

The spatial layout of the Concept Plan building envelopes aims to maximise the direct sunlight reaching each unit of the development. The solar analysis demonstrates that the 3 hour "Rule of Thumb" of the Residential Flat Design Code can be achieved across the site. This is appropriate in a concept planning exercise. Often, due to the constraints of the site and the orientation of surrounding developments, some buildings within a development, will receive direct sunlight for 3 hours in mid-winter to more than 70% of units, while other buildings will have less than 70% of apartments achieving this level.

In instances where the "Rules of Thumb" are not satisfied it is often that this is compensated by the affected buildings having other design features or opportunities for improved amenity, such as views towards Majors Bay or communal/open space areas in the site. In this instance:

Building 3A and Building 4A: are overshadowed by adjoining buildings in the Concept Plan and adjoining development to the north in the morning period. However, both buildings are orientated towards the significant water view of Majors Bay and will have direct access to the foreshore thereby significantly enhancing amenity for these residents. The Residential Flat Design Code notes that solar access is an important consideration however, it must be balanced with the enjoyment of views (for example water views). For these buildings with water views and direct access to the foreshore, it is considered that significant amenity factors other than solar access are available.

Buildings 2C and 4C: have minor variations from the recommended 'Rule of Thumb' (68% and 67% respectively for 3 hours), but are likely to at least meet the lesser 2 hour measure envisaged in the Residential Flat Design Code for higher density residential development. These buildings are suitably separated from other buildings and are provided with an 'open aspect' that allows diffuse daylight penetration to occur.

Building 2D is the poorest performing building in terms of solar access which doesn't benefit from other amenity factors. However, within the constraints of the site and the overall master planning exercise its anticipated results are satisfactory. The building has outlook over the communal open space within Site 1 and is also the tallest building on the site (part 6/7 storeys) and therefore units on the upper levels will have views to Majors Bay. Therefore residents at the upper levels of Building 2D will benefit from views while the lower levels have outlook to communal open space.

The Department has applied the 2 hour 'Rule of Thumb' in similar higher density developments. As this development's solar access assessment is benchmarked against 3 hours for each stage, it is anticipated that the majority of buildings will comply with the lesser 2 hour requirement which has been applied for other Part 3A projects of a similar density.

Cross Ventilation

The Residential Flat Design Code recommends that 60% of units should be naturally cross ventilated and 25% of kitchens should have access to natural ventilation. As this is a Concept Plan and indicative floor plates have not been developed, the applicant's architects have indicated that the proposal is capable of complying at the detailed Development Application stage.

Ground Floor Apartments

The Residential Flat Design Code provides recommendations on the special treatment required for ground floor apartments to contribute to streetscapes and increase residential amenity. In particular, it is suggested that where appropriate, ground floor apartments should be provided with individual entries and private courtyards.

Given the proposal's perimeter block arrangement and that these buildings will address existing roads, it is appropriate that this Residential Flat Design Code consideration is considered in the detailed Development Applications. This will assist in providing articulated facades and will enhance pedestrian environment. This requirement is included in the recommended instrument of approval.

Open Space and Deep Soil Planting

The Residential Flat Design Code recommends that 25-30% of a site be communal open space. The proposal provides for 9,278m² of communal open space, representing 34% of the overall site. On a site by site basis each stage also complies with the 25-30% requirement.

The Residential Flat Design Code also recommends that 25% of open space areas should be provided as deep soil zones. The proposal primarily relies on the publicly accessible open space areas for this requirement (so these areas are not encumbered with basement parking), which are of a sufficient size and width to allow deep soil planting. A total of 8,000m² of deep soil zones are provided across the site, representing 29% of the site area.

The Department is satisfied that the open space and deep soil planting achieves the intent of the Code.

5.4 Open Space

The Preferred Project Report increases the extent of the publicly accessible foreshore. This meets Council's foreshore building line controls resulting in an increase in the foreshore open space by 594m² to 3,395m² and an increase in the total publically accessible open space by 1,021m² to 5,867m².

In addition, 9,278m² of communal open space is proposed for the central courtyards between the perimeter block buildings, and adjoining the areas of publically accessible open space. A total of 8,000m² of deep soil zones are provided across the site, representing 29% of the site area.

A key benefit of the Concept Plan is the east west links through the site to improve pedestrian foreshore access. The link through the northern portion of the site aligned with Whittaker Street is particularly important in linking the wider locality to the foreshore.

The foreshore open space is highly accessible by virtue of the through site links. Overshadowing of the foreshore open space is present in the morning during the winter solstice but is lessened by 11am. Likewise, for the remainder of the year any effects of overshadowing on the foreshore open space have moved by late morning, allowing lunch time and afternoon sunshine.

Council has indicated its preference for the care and control of the 12 metre foreshore open space land to be dedicated to Council. Council considers the dedication and embellishment of this land and repair of the seawall to comprise a community benefit but is not of a material public benefits to offset a Section 94 monetary contribution for local infrastructure. The Department concurs with this position and relevant conditions have been included in the instrument of approval requiring dedication and embellishment of this land at no cost to Council.

The central communal open space areas are subject to various degrees of overshadowing during the day. In mid-winter, direct sunlight is achieved to a useable portion of these spaces between midday and 2pm.

The publicly accessible open space running from Whittaker Street to the foreshore is approximately 15 metres wide and was proposed to be dedicated to Council. In the Department's consideration, the link between Whittaker Street and the foreshore provides the key pedestrian desire line through the site and is more appropriate for public not private ownership. However, Council's opposition to accepting control and maintenance of this land is noted and this space is required to remain on private title but be publicly accessible in the instrument of approval.

The publicly accessible space from Northcote Street north to the foreshore is not significantly wide (approximately 7 metres). Notwithstanding, it is a useful feature of the open space network providing important pedestrian connectivity to the foreshore. As such, there is planning merit in this space being publically accessible, though Council does not want to accept dedication of this space.

Both through site links proposed to be dedicated by the proponent are therefore likely to remain in private ownership with a requirement for public access on a community title through the creation of a "right of way". This is a recommended condition in the instrument of approval.

Overall, based on the above analysis the Department is satisfied that the proposed modifications to the open space in the Preferred Project Report achieve a suitable amount of residential amenity and open space for future residents and the community.

5.5 Traffic and Transport Analysis

Council and residents raised concerns over the impact of the proposal on local streets and arterial intersections, with traffic being a key consideration of submissions. The key concerns can be summarised as follows:

- Concerns in relation to negative impacts of traffic generation;
- Findings and methodology of the EA traffic report;
- Inadequate public transport;
- Traffic issues associated with the queue for the ferry/punt; and
- Access from local roads to the arterial road network, particularly Parramatta Road.

The site has been subject to traffic impact assessments commissioned by the proponent and Canada Bay Council and the proposal has also been considered by the Sydney Regional Development Advisory Committee. The Department also commissioned an independent review of the proponent's and Council's traffic impact assessments.

Proponent's justification

Based on the various traffic impact assessments, the proponent indicates that the proposal does not pose any significant traffic concerns to warrant refusal of the concept plan application. In summary:

- Roads and Maritime Services raised no concerns with the traffic impacts of the proposal;
- The traffic report submitted with the Environmental Assessment surveyed and assessed local conditions and raised no concerns in relation to both the local traffic generation impacts of the proposal and connectivity to regional roads;
- A peer review submitted with the Preferred Project Report supported the initial Environmental Assessment conclusions and raised no concerns in relation to the proposal. Specifically, the peer review found that the methodology and conclusions were sound and supportable and that the traffic report prepared on behalf of Council was not supportable;
- The peer review found the traffic impacts of the proposal will be negligible and there will not be a change to the level of service of key intersections around the site; and
- The proposal provides upgrades to local streets. Also, acknowledging the concerns of Council and residents regarding arterial road access, the Concept Plan proposes to contribute to the upgrade of local roads, or potentially two intersections at Patterson Street and Wellbank Street along Concord Road.

Council's views

Council's submissions on the Environmental Assessment and the Preferred Project Report raised concerns with the traffic generation of the proposal. The traffic concerns were linked to the proposed GFA. Council's submissions are supported by a traffic assessment, which provides differing conclusions to the proponent's assessments, detailed as follows:

- The Council's traffic assessment provides an analysis of the entire peninsula and investigates the impact on traffic if other sites achieve an FSR greater than 0.75:1;
- Even with the redevelopment of disused industrial land to the density permitted by Canada Bay Local Environmental Plan 2008, the level of service of many intersections would deteriorate;
- The trip assignments used by the proponent are not comprehensive enough to be statistically significant;
- To resolve problems arising from an increase in the permitted GFA, broad road and intersection upgrades and increased public transport services (bus and ferry), would be required; and
- The expected cost to reconstruct the most affected intersections to acceptable performance levels is beyond Council's fiscal capacity. The provision of additional public transport is out of the control of the proponent and Council.

Roads and Maritime Services views

The Concept Plan was considered by the Roads and Maritime Service's Sydney Regional Development Advisory Committee. No concerns were raised with the traffic generation impacts of the proposal on local or regional roads.

Independent review

The Department commissioned an independent review of the proponent's and Council's traffic assessments. This review was undertaken by ARUP to objectively evaluate the assessments. ARUP's review has considered traffic generation, trip generation, road network capacity, travel mode share and parking. ARUP's findings are summarised below. The key conclusion is that the proponent's traffic analysis provided is sufficient to demonstrate that

the development will operate adequately in terms of the traffic network performance and access.

Traffic Generation

- There have been various views in the traffic reports as to which trip generation rate should be used for the development. ARUP considers that a trip generation rate of 0.4vtph, or 157 trips/hour (proponent's rate) is appropriate for traffic assessment. This is based on independent surveys at Breakfast Point and other comparable locations to identify appropriate traffic generation rates for the development;
- The proponent's assessment bases the peak period trip generation on employment rates from uses on the site (albeit from 2008/2009 before tenants started vacating). This is less than the traffic generation of office and industrial uses based on Roads and Maritime Services Guidelines. Using the employment rate of 242 employees, the former traffic generation of the site is 165 trips/hour;
- The proposed development at 157 trips/hour will not generate traffic in excess of that historically generated on the site (165 trips/hour); and
- There is general consensus among Council's and the proponent's experts that key intersections along primary traffic routes to/from the site are operating at acceptable levels of service in peak periods.

Road Network

- Traffic generated by the proposal could be accommodated by the existing intersections;
 - The cumulative impacts of other known and potential developments in the area have not been contemplated in the proponent's traffic assessments. Council's traffic study indicates a number of roads exceeding traffic volumes for the measure of 'good levels' of amenity;
 - On the basis that the proposed uses do not generate more traffic than the site's recent industrial uses, the traffic capacity performance of key intersections and the environmental capacity of the roads providing access to the site will not be exacerbated by the proposal;
 - The proponent has identified the following street improvements in its revised statement of commitments:
 - street upgrades to public roads (Hill, Northcote & Edwin Streets) including resurfacing, new kerb, guttering, footpaths and street tree planting; and
 - contributions to local road upgrades or intersection upgrades at the Patterson Street and Wellbank Street intersections along Concord Road as negotiated with Council.
- Future Assessment Requirement No. 7 requires the proponent to negotiate with Council about an appropriate contribution to offset the developments impact on the intersections.

Mode share and Public Transport Usage

The level of public transport provision supports the proposed development and will increasingly become an important service for existing and future residents in the local area. The proponent's commitment to consult with Transport for NSW and investigate opportunities to upgrade the Whittaker Street bus stop has been included in recommended conditions of approval.

Department's consideration

The Department recognises traffic is a key issue for assessment and has carefully considered ARUP's assessment and considers it to be robust. ARUP tested the historic traffic generation rates put by the proponent against other methodologies including RMS rates and Council Section 94 calculations to ascertain whether they were reasonable. ARUP considered the traffic generation rates for the proposed development put by the Proponent against RMS standards, and then adjusted these having regard to site specific conditions.

The Department accepts ARUP's view that the proposed development will not generate traffic in excess of that historically generated by the uses on the site and accordingly the capacity of key intersections and roads will not be unreasonably exacerbated.

The Department also considers that the recommended Future Assessment Requirement No.7 which requires the proponent to negotiate with Council about an appropriate contribution to offset the developments residual impact on key intersections will adequately manage traffic impacts directly associated with the proposal.

Parking

Council and residents raised concerns about the impact of the proposal on local streets and on-street parking and requested the proponent to clarify parking numbers. The *City of Canada Bay DCP* specifies the following parking rates for residential apartments:

- Small – 1 space per dwelling;
- Medium – 1.5 spaces per dwelling;
- Large – 2.0 spaces per dwelling; and
- Visitors – 0.5 spaces per dwelling.

The proponent's provision of parking is shown in **Table 8:**

Table 8: Comparison of EA and PPR Parking Rates

Parking	Original Environmental Assessment	Preferred Project Report
Small (1 bdr)	0.5 to 1 space	1 space
Medium (2 bdr)	1 to 1.5 spaces	1.5 spaces
Large (3 bdr)	1.5 to 2 spaces	2 spaces
Visitors	1 per 10 units to 1 per 5 units	1 per 5 units
Residents	Based on indicative mix: 443-644 (range)	Based on indicative mix: 624
Visitors	41-81 (range)	78
Indicative Total	484-725	702

The Preferred Project Report complies with Council's Development Control Plan parking rates for residential apartments. An increase in visitor parking is proposed, though this is still below Council's visitor parking rate.

ARUP also considered the suitability of the proposed parking arrangements. The parking rates are supported, particularly given their compliance with Council's Development Control Plan, with the exception of the visitor parking rate which does not strictly comply.

The proponent's original proposed visitor car parking rate of 1 space per 10 units was considered insufficient to accommodate expected demand and would probably result in undue impacts. The proponent has therefore adopted a minimum rate of 1 space per 5 dwellings in the Preferred Project Report, which reflects the Roads and Maritime Services rate for high density residential flat buildings in subregional centres. The independent ARUP review considers this rate as appropriate.

The proposal also seeks to include a residential parking scheme on streets around the development which would comprise sign posted time limited parking areas for residents of the development, while existing residents will have access to parking permits. Given Council's reluctance to enter into a Voluntary Planning Agreement, it is considered that this issue is best resolved by Council rather than the applicant as it relates to the management and operation of existing public streets.

As the application is for a Concept Plan approval, there is potential for the apartment mix to vary in the future in response to market demand and the needs of future Development Applications. As such, it is considered appropriate that parking rates are adopted in the Further Assessment Requirements (No. 5). The indicative unit mix has been provided to demonstrate that appropriate basement arrangements are capable of accommodating the anticipated parking demands of the development, subject to refinement at Development Application stage.

5.6 Contamination

The site has been used for various industrial purposes including a paint factory on Site 1, which has contaminated the site making remediation necessary. The proponent submitted an Environmental Site Assessment report with the Environmental Assessment, which concluded that the site can be made suitable for its proposed use. However, the Office of Environment and Heritage recommended conditions requiring further assessment of contamination and a review by an accredited Site Auditor.

Office of Environment and Heritage's views

The Office of Environment and Heritage made the following comments:

- Recommends a site auditor be engaged to prepare a site audit review on the adequacy of the investigations;
- Any additional requirements arising from the site auditor review to be undertaken by a suitably qualified and experienced consultant;
- Following any additional investigations and preparation of remediation action plans, a site auditor is to prepare a site audit statement confirming the site can be made suitable, with another site audit statement following the remediation and validation works; and
- Investigations and remediation works to be in accordance with relevant the Office of Environment and Heritage guidelines.

Proponent's Response

In response to the above comments, the proponent advised that a Site Auditor will be engaged at the Development Application stage and that the Office of Environment and Heritage comments can be included as conditions of consent. Nonetheless, the Department requested the proponent provide the site auditor review of the contamination assessments.

Department's consideration

State Environmental Planning Policy No. 55 requires a planning authority to be satisfied that contaminated land will be suitable for its proposed use or can be remediated for its proposed use. As such, there needs to be a sufficient degree of certainty about the nature and location of the contaminants and the feasibility of remediation.

The Department and the Office of Environment and Heritage raised concerns regarding the conclusion of the proponent's contamination assessment, particularly given it is a summary of investigations since 2002-2005. The proponent subsequently engaged an accredited Site Auditor to review the contamination assessment. The findings of the Site Auditor review are as follows:

- Sufficient preliminary land contamination information has been obtained for the Concept Plan approval stage; and
- A Remediation Action Plan can be developed to render the site suitable for residential development, and this has been recommended to be included in the Instrument of Approval at the request of Office of Environment and Heritage.

Given that a technically feasible and robust Remediation Action Plan can be developed, the Department finds it acceptable to proceed to the determination of the Concept Plan. This is subject to the required additional work, as nominated by the Site Auditor, being carried out

prior to the assessment of detailed proposals and the commencement of work, which has been included in the instrument of approval.

5.7 Other Matters

Section 94 Contributions and Voluntary Planning Agreement (VPA)

The proponent has proposed to enter into a Voluntary Planning Agreement with Canada Bay Council for the public benefits associated with the proposal as monetary contributions or works-in-kind to offset Section 94 contributions. Contributions proposed by the proponent include, upgrades to public roads and infrastructure, implementation of a residents parking scheme, undertaking of technical studies on the seawall and provision of a car scheme.

Section 94 facilities are generally for the upgrade and development of community facilities, recreation facilities, infrastructure, roads and traffic management and town centre improvements. Any offer of works in a Voluntary Planning Agreement should reflect such works where possible. However, a number of items in the proponent's offer are works that a developer would have been expected to provide to service the needs of the development (i.e. street upgrades to public roads and infrastructure upgrades) and therefore do not warrant an offset. Other proposed items (i.e. the provision of bicycles to units) are not considered a public benefit and also therefore do not warrant an offset.

Council has indicated that given its objection to the development it would be unwilling to enter into a Voluntary Planning Agreement. Subsequently, Council indicated its preference for the care and control of the 12 metre foreshore open space land. Council considers the dedication and embellishment of this land and repair of the seawall to comprise a community benefit but is not material public benefits to offset a Section 94 monetary contribution for local infrastructure. The Department concurs with this position.

The proponent also seeks to dedicate the through site links from Whittaker and Northcote Streets to the foreshore. Council does not concur with this dedication as the width and size of the links are insufficient. The Department considers the link between Whittaker Street and the foreshore to be a key public desire line through the site and could be appropriate for public rather than private ownership. However, Council's opposition to accepting control and maintenance of this land via a Voluntary Planning Agreement is noted.

As such, Council proposes that the through site links remain in private ownership but publicly accessible as is proposed with the other proposed through site links. Those links are required to provide adequate open space and deep soil zones for the development. They are therefore considered to be works that would reasonably be expected to support the development and that do not generate a material public benefit for a Section 94 offset. This requirement is included in the instrument of approval.

If Council accepts the dedication of the foreshore open space, a Voluntary Planning Agreement could be an appropriate mechanism under the EP&A Act. The Voluntary Planning Agreement would not be subject to the exclusion of Section 94 contributions on the basis that these works associated with an agreement reflect part of the community benefit required for the substantial height and floor space ratio uplift on the site.

The instrument of approval will require the dedication of foreshore land (to a specific embellishment standard) and the repaired sea wall to Council at no cost. The Minister is able to impose a dedication condition on a Part 3A approval. This will address circumstances where a Voluntary Planning Agreement is unable to be agreed between Council and the proponent and will ensure transfer of the foreshore lands to public ownership.

A summary of the Voluntary Planning Agreement offer and the Department's consideration is provided in **Appendix I**.

The required Section 94 contribution payment will be determined by Council in its assessment of future development applications and will be required by a condition of consent.

Unit Mix

The Preferred Project Report includes an indicative unit mix and a total of approximately 391 apartments, as follows:

- 1 bedroom – 58 apartments (15%)
- 2 bedrooms – 200 apartments (51%)
- 3 bedrooms – 133 apartments (34%)

There is the potential for the apartment yield and mix to vary in the future in response to market demand and it is appropriate to maintain this flexibility for development staging. Whilst the basement layouts have been designed to accommodate the parking demand generated by the indicative mix, the parking rates outlined previously will govern the detailed Development Applications for each site.

It is anticipated that any changes in unit mix should be capable of being accommodated in the basement car parks. If not, a modification to the Concept Plan could be lodged.

It is appropriate that the proposed gross floor area and floor space ratio in the instrument of approval limit the maximum quantum of development and that each Development Application be lodged with a proportionate unit mix responsive to market demand with a detailed justification.

Staging

The proponent has provided an indicative staging plan which will be refined in response to market conditions. However, as outlined in the proponent's statement of commitments, Precinct 1 fronting the foreshore is proposed to be developed first to provide access and dedication of the foreshore at the western portion of the precinct. The Department supports this aspect of the staging plan.

The proponent seeks flexibility with respect to the sequence of the remaining stages. However, the Department considers each stage should be delivered in full to ensure adequate open space, road upgrades and other elements essential to the delivery of the project. This is reflected in the instrument of approval.

6. CONCLUSION

The Department has assessed the merits of the application taking into consideration issues raised in submissions and is satisfied that potential impacts have been addressed in the Preferred Project Report, the revised Statement of Commitments and the recommended conditions of approval.

The Department is satisfied that the Concept Plan, as amended in the Preferred Project Report and by the recommended conditions of approval, addresses the key issues raised during the assessment process. The Department notes the following key findings:

- The proposal offers a desirable opportunity to provide higher density residential development in close proximity to the Majors Bay foreshore;
- The proposed density is greater than that permitted by Council's controls. However, the additional density can be accommodated without unreasonable amenity impacts on the surrounding dwellings, with an acceptable built form that is compatible in character with the surrounding area and without causing the road network to perform inadequately;
- Notwithstanding the variation from Council's Local Environmental Plan controls, the proposal is sympathetic to the character of the Mortlake peninsula and provides an appropriate urban design response;
- The Preferred Project Report responds to key issues and comments raised in the exhibition period by:
 - providing a 12 m setback to the waterfront;
 - repositioning the buildings on the waterfront to align with the foreshore line;
 - maintaining 3 storeys along the waterfront and further increases in heights;
 - reducing the 9 storey building on Hilly Street to 6/7 storeys; and
 - providing through-site and visual links from Hilly Street, Bennet Street and Whittaker Street to the foreshore.
- A peer review of the various traffic studies has concluded that there is sufficient capacity within the local road network to accommodate the traffic generation of the proposed development, with no need or requirement for intersection upgrades;
- The proponent has offered to explore the funding of intersection upgrades at Patterson Street and Wellbank Street. Future assessment requirement No. 7 requires the proponent to undertake these works or make a financial contribution for other works, following negotiations with Council;
- Parking rates have been adjusted to align with Canada Bay Council's Development Control Plan rates, with the exception of visitor parking rates which accords with the Roads and Maritime Services guidelines; and
- The proposal offers a range of other sustainable transport measures including a future transport and accessibility guide, provision of 1-2 car share spaces and giving each unit (with 2 bedrooms or more) a bicycle.

The proposal is also considered to be in the public interest for the following reasons:

- Provision of additional dwellings to the Inner west sub-region to meet dwelling targets;
- The creation of public domain areas, including publicly and privately accessible areas of open space, pedestrian footpaths and through site links;
- Dedication of the proposed foreshore open space and upgrade/repair of the sea wall;
- The commitment to upgrading of the existing bus stop along Whittaker Road and the provision of bicycle for 2+ bedroom units to reduce car use; and
- Employment opportunities during the construction and operation of the development.

The Department recommends approval of the Concept Plan as it has largely been demonstrated that it represents a suitable form and density of redevelopment for the site. The Concept Plan establishes the planning and development framework which will be the basis for the consent authority to assess future development proposals within the site. The Cox Richardson Concept Plans, the Instrument of Approval and the Proponent's Statement

of Commitments articulates the framework for assessment of subsequent Development Applications and sets the broad parameters for the development of the site.

7. RECOMMENDATION

It is recommended that the Planning Assessment Commission, as delegate for the Minister for Planning and Infrastructure:

- (a) consider the recommendations of this Report;
- (b) **Approve** the Concept Plan application under the repealed Section 75O of part 3A of the Environmental Planning and Assessment Act, 1979; and
- (c) **Sign** the attached Instruments of Approval (**Appendix J**).


Director 15/3/18
Metropolitan and Regional Projects South


Executive Director
Development Assessment Systems & Approvals

15.3.18

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B PREFERRED PROJECT REPORT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX D SUBMISSIONS TO ENVIRONMENTAL ASSESSMENT AND PREFERRED PROJECT REPORT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX E CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Ecologically Sustainable Development (ESD) principles

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the proposal. The balancing of the application in relation to the Objects is provided in Section 3 of this report.

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** – The proposal will have positive environmental effects in providing high density housing. The Department has considered the economic, social and environmental impacts of the proposal and concluded that there are no adverse or unmanageable impacts that would preclude the development from proceeding.
- **Precautionary Principle** – The proposal to replace disused industrial buildings on the site with a high density residential flat development is underpinned by an EAR and suite of technical supporting documents which demonstrate there are no irreversible or serious environmental impacts anticipated. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The expected environmental impacts are considered minimal and can be successfully mitigated and/or managed through the mitigation measures outlined in the Proponent's Statement of Commitments and/or the recommended conditions of approval.
- **Inter-Generational Principle** - The proposal achieves key social and economic sustainable outcomes as it will result in the redevelopment of an existing and arguably underutilised brownfield site for higher density residential purposes in a middle ring suburb of Sydney. The efficient and orderly development of the site provides the opportunity to contribute to the draft Inner West Subregional Strategy's dwelling targets, utilise existing infrastructure, and contribute to local and subregional economic growth through the creation of future construction employment opportunities. In addition, the proposal incorporates a range of ESD principles and environmental management practices to ensure that the environment is protected for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats.

- **Valuation Principle** – The valuation principle is more appropriately applied to strategic planning decisions rather than the scale proposed by this proposal. The principle is therefore not considered to be relevant to this particular proposal.

The Department considers the proposal satisfactorily satisfies ESD principles noting the conceptual nature of the current proposal. The Proponent's Statement of Commitments, the recommended conditions of approval, and the ongoing requirement of environmental planning instruments such as SEPP BASIX to address ESD controls will ensure the proposal continues to satisfy and deliver ESD outcomes on the site. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

Section 75I(2) of the Act / Clause 8B of Regulations

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director General's Report is to address a number of requirements. These matters and the department's response are set out below:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report;	The Proponent's EA is at Appendix A and Preferred Project Report Appendix C .
Any advice provided by public authorities on the project;	A summary of the advice provided by public authorities on the project is set out in Section 4 of the report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the proposal is identified below, including an assessment of the proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division,	An assessment of the proposal against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate;	The environmental assessment of the Concept Plan is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	In accordance with Section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest/public benefits are discussed in Sections 2 and 5 of this report.
The suitability of the site for the project	The site is suitable for the proposed development as it is relatively large and environmentally unconstrained

	site which is zoned for residential purposes. The proposal will provide high density residential housing with good access to public transport infrastructure in a middle ring suburb of Sydney, consistent with strategic housing delivery objectives.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 of this report.

Under Sections 75(2)(d) and 75(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project. The Department's consideration of relevant SEPPs and EPIs is provided below.

State Environmental Planning Policy (Major Development) 2005

The Project remains a Part 3A project under the former provisions of Schedule 1, Clause 13, Group 5 of the Major Projects SEPP, "residential, commercial or retail projects" as DGRs were issued prior to 8 April 2011. The project has a capital investment value (CIV) of more than \$100 million and has been determined as an important project in achieving State and regional planning objectives.

State Environmental Planning Policy 55 – Remediation of Land

State Environmental Planning Policy 55 requires a consent authority to consider whether the land is contaminated, and if so, whether the land will be remediated before the land is used for the intended purpose. The Proponent has undertaken a Stage 1 and 2 Environmental Site Assessments in respect of the development. The Stage 1 and 2 Environmental Site Assessments have been reviewed by the Department's Hazard's Branch which recommended that a Site Auditor review the documentation submitted in support of the proposal to confirm whether the site can indeed be made suitable for the proposed residential uses. On 25 January 2012, a Site Auditor's review of the contamination assessments was prepared by Zoic Environment was submitted to the Department which confirms:

- Sufficient preliminary contamination information has been provided for concept plan approval stage
- A Remediation Action Plan can be developed to render the site suitable for residential development to meet the requirements of SEPP 55.

On the basis of the assessment that a technically feasible and robust Remedial Action Plan can be developed, the Department considers that it is reasonable to proceed to determination of the concept plan. This is subject to the required additional work, as nominated by the Site Auditor, being carried out prior to the assessment of detailed proposals and the commencement of work, which has been included in the instrument of approval.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 requires that relevant public authorities be consulted in relation to certain development during the assessment process or prior to development commencing. As such, the RMS has been notified and given the opportunity to make representations in respect of the proposed development. **Section 4.2** and **Section 5.5** of this report details the RMS's comments. The Department will also notify the RMS of its determination of the subject proposal.

State Environmental Planning Policy No. 65 (SEPP 65 – Design Quality of Residential Flat Buildings)

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. A Design Verification Statement has been provided by Cox Richardson Architects (refer to Appendix 6 of the Proponent's PPR), which concludes that the proposal satisfies the relevant requirements of SEPP 65's design quality principles.

The Department has undertaken its own assessment against the SEPP 65 principles, as detailed in the below table.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located in a zoned residential area, which is characterised by medium and high density residential development and existing industrial land transitioning to residential. Conditions of approval have been recommended to ensure the future detailed design of buildings respond to the existing and future context of the site and surrounding area, and maintain adequate levels of amenity for existing and future adjoining developments. Refer to the discussion at Section 5.1 and Section 5.2 of this report for further details.
Principle 2: Scale	The scale of the proposal is discussed in Section 5.2 .
Principle 3: Built Form	The form and spatial arrangement of the proposed building envelopes as proposed by the Concept Plan is generally supported. Conditions of approval have been recommended to ensure the future detailed design of buildings respond to the existing and future context of the site and surrounding area and satisfy the built form outcomes of SEPP 65.
Principle 4: Density	The proposed density is considered appropriate for the site and its context in the context of the site's strategic context and geographical position as discussed in Section 5.2 and Section 5.2 .
Principle 5: Resource, Energy and Water Efficiency	The site has a low level of environmental sensitivity and has not been identified as being of high resource value. Energy sustainability for the proposal focuses on reducing the demand for energy through the efficient design of the future built form and water supply conservation targets. Energy and water efficiency targets will also be achieved through future dwelling designs having to satisfy BASIX requirements.
Principle 6: Landscape	The proposal includes a satisfactory landscaping response, and achieves the minimum landscaped area and deep soil zones recommended by SEPP 65. The future detailed design of the site will provide greater details of proposed landscape treatments.
Principle 7: Amenity	The proposal generally complies with the requirements of SEPP 65 and the recommended standards of the RDFC in terms of achieving satisfactory residential amenity. Specific issues relevant to the Concept Plan have been discussed

Key Principles of SEPP 65	Department Response
	further in Section 5.3 . Current planning indicates that satisfactory levels of solar access, natural ventilation and privacy can be achieved.
Principle 8: Safety and Security	The buildings as proposed at a conceptual level allow for passive and active surveillance of the surrounding area in future detailed design. The future detailed design will further address other safety and security issues around public and private areas.
Principle 9: Social Dimensions and Housing Affordability	The Architectural Report prepared by Cox Richardson Architects appended to the Proponent's PPR suggests the proposal satisfies this Design Principle by increasing connectivity to the foreshore and providing improved public open space for future and existing residents in the area. The proposal is silent on how it might achieve affordability and other social planning objectives (i.e.: mix, number of adaptable dwellings, etc). A Future Environment Assessment requirement has been recommended to ensure facilitate future consideration of this Design Principle.
Principle 10: Aesthetics	The future detailed design of the buildings will allow for appropriate articulation of facades through a use of appropriate materials and finishes to complement the existing and desired character for the site and surrounding area. Future assessment requirements have been recommended to facilitate this outcome.

Residential Flat Design Code

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail desirable performance requirements for residential flat development that would ensure the development complies with the intent of the Code.

	RFDC requirement	Proposed	Complies?
Part 1 Local Context			
Building Separation (habitable rooms & balconies)	Up to 4 storeys: 12 metres between habitable rooms/balconies Above 5 storeys: 18 metres between habitable rooms/balconies;	See Section 5.3	Y
Street Setbacks	Compatible with desired streetscape character	See Section 5.2	Y
Part 2 Site Design			
Deep Soil Landscaping	Min 25% of open space	See Section 5.4	Y
Fences	Provide privacy and security Contribute to public domain	Able to comply, in detailed design phase for the site	Y
Communal Open Space	Larger and brownfield sites potential for >30%	See Section 5.3 and 5.4	Y

	RFDC requirement	Proposed	Complies?
Private Open Space (ground floor)	25m ² with minimum width of 4m	Able to comply, in detailed design phase for the site	Y
Part 3 Building Design			
Building Depth	Max 18m	Maximum building depth will not exceed 18m (net of façade articulation zones)	Y
Acoustic Privacy	Separate noisier spaces from quieter spaces	Able to comply, in detailed design phase for the site. Relevant conditions are in the instrument of approval	Y
Solar Access	70% of living rooms & private open space to achieve 2hrs (for dense urban areas) sunlight between 9am-3pm on 21 June (Winter solstice)	Analysis of the built form with apartment layout assumptions confirms that the scheme can comply for each precinct and on an overall basis	Y
Single aspect units	Limit those with southerly aspect to no more than 10%	Able to comply, in detailed design phase for the site	Y
Naturally cross ventilated	Min 60% of apartments cross ventilated	Able to comply, in detailed design phase for the site	Y
Kitchens with natural ventilation	Min 25%	Able to comply, in detailed design phase for the site	Y
Max No. of apartments off circulation core	Max 8 apartments per lift core	Able to comply, in detailed design phase for the site	Able to comply, in detailed design phase for the site
Apartment Size (min)	1 bed cross through= 50m ² 2 bed= 89m ² 1 bed single aspect= 63 ² 2 bed corner= 80m ² 2 bed cross over= 90m ²	Able to comply, in detailed design phase for the site	Y
Balcony Depth	Min 2m	Able to comply, in detailed design phase for the site	Y
Floor to ceiling heights	≥2.7m	Able to comply, in detailed design phase for the site	Able to comply, in detailed design phase for the site

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

SEPP BASIX requires all new residential dwellings in NSW to achieve the following sustainability targets depending on the geographical location of the proposed dwellings: 20% reduction in energy use and 40% reduction in potable water. More specifically, SEPP BASIX requires residential flat buildings such as those proposed on the subject site to achieve the following energy targets:

- 35% for 3 storey residential buildings;
- 30% for 4-5 storey residential buildings; and

- 20% for buildings 6 or more storeys.

The Proponent's indicates that the minimum BASIX requirements can be met, however at this stage the proposal has been unable to demonstrated how this will be achieved as the design of individual units has not been undertaken.

Notwithstanding this, SEPP BASIX will apply to future development applications. BASIX Certificates will be required to be prepared for each future development application demonstrating compliance with BASIX.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)

The Department has considered the provisions within the Sydney Harbour Catchment REP that could be construed as being of relevance. The Department considers that the proposal satisfies the relevant provisions of the REP as follows:

- the proposal exhibits satisfactory sustainability outcomes;
- it is capable of achieving a high quality and ecologically sustainable urban environment if developed in accordance with the recommended conditions of approval and Future Environmental Assessment Requirements;
- accessibility to and along the foreshore will be provided through the proposed setback;
- the technical supporting studies submitted with the EAR and PPR confirm the protection and maintenance of the adjoining waterway can be achieved.

The Department has also specifically considered the proposal's compliance with the REP's planning principles for land within the Foreshores and Waterways Area and considers:

- public access to and along the foreshore will be provided and improved providing passive recreation opportunities;
- minimal impact is expected to the adjoining waterway and there is no remnant vegetation at risk;
- the proposal is capable of maintaining and protecting the unique visual qualities of Sydney Harbour and the foreshore as demonstrated at **Section 5.2** of the report;
- there is no requirement to set aside part or the entire site for the purposes of meeting existing or future demand for working harbour uses.

Canada Bay Local Environmental Plan 2008

The site is zoned R1 - General Residential under the Canada Bay Local Environmental Plan 2008 (CBLEP 2008). The zone promotes development which:

- provides for the housing needs of the community,
- provides for a variety of housing types and densities; and
- enables other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed residential flat buildings are a permissible use within the zone.

The relevant provisions of the CBLEP 2008 are addressed in the table below.

CBLEP 2008 Clause	Requirement	Proposal	Complies?
Part 4 Principal Development Standards			
4.3 Height of Buildings	12m	3-7 storeys (up to 23 metres)	No See Section 5.2 for further discussion
4.4D Mortlake Point Floor Space Ratio	0.75:1 for residential	1.4:1	No See Section 5.2 for further discussion
Part 6 Additional Local Provisions			
6.1 Acid Sulfate Soils	The site is mapped part Class 2 Acid Sulfate Soils and part Class 5 Acid Sulfate Soils.	-	Able to comply, subject to the preparation of an Acid Sulfate Soil Management Plan for future development applications on land mapped as Class 2 Acid Sulfate Soils.
6.4 Development on the foreshore must ensure access	Developments must demonstrate: a) continuous public access to and along the foreshore through or adjacent to the proposed development; b) public access links with existing or proposed open space; c) public access is secured by appropriate covenants, agreements or other instruments registered on the title to land; d) public access is located above mean high water mark; and e) foreshore character is reinforced and development respects existing environmental conditions.	The proposal provides continuous public access of at least 12m width along its entire foreshore above the mean high water mark. Provision has been made for direct access from within and through the site to the foreshore. The recommended Future Environmental Assessment Requirements will ensure that the foreshore access is publicly accessible.	Complies. See Section 5.4 for further discussion
6.5 Foreshore Building Line	The site is subject to a 12m foreshore building line.	12m	Yes

On the basis of the above, the Department considers that the proposal generally complies with the intent and controls of CBLEP 2011 by providing a substantial amount of high density residential development within the Mortlake Point locality. Despite the proposed building envelopes exceeding the prescribed height and density controls for the site, the development is supported for the reasons outlined in **Section 5.1** and **Section 5.2**.

NSW State Plan

The NSW State Plan aims to achieve improved urban environments and ensure sustainable development. The proposal is located within an established urban area close to transport services, social infrastructure and retail and employment opportunities. The proposal is therefore consistent with the State Plan.

Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036 is a strategic document that aims to guide the development of metropolitan Sydney between 2010 and 2036, including the provision of housing and employment targets. The Plan identifies that 770,000 additional dwellings and 760,000 new jobs are required in metropolitan Sydney by 2036. The proposal is consistent with the relevant strategic directions of the Metropolitan Plan for Sydney 2036, as follows:

Strengthening the City of Cities:

- To contain the urban footprint and achieve a balance between greenfield growth and renewal in existing urban areas.

Transport for a Connected City:

- Integrating residential development with existing and established urban areas with access to public transport facilities (buses and ferries) and infrastructure.
- Proposing a modal strategy that is appropriate for the development having regard to the site's location and proposed growth in demand.
- Proposing bicycle and pedestrian facilities that are generally consistent with the objectives of the NSW Bike Plan, Premier's Council on Active Living and other sustainable travel behaviour.

Housing Sydney's Population:

- Recognising the site's strategic location and potential to accommodate an appropriate housing typology having regard to the changing demand in housing mix, typologies, tenures, sizes and affordability.
- Locating new housing within an existing urban area.
- Contributing to the subregional housing target.
- Ensuring good design will be achieved through the Department's recommended conditions of approval and Future Environmental Assessment Requirements.

Growing Sydney's Economy:

- Recognising that the site's past employment and industrial uses are not the most orderly, efficient or economic uses and unlocking the currently under utilised site, whilst also providing an opportunity to inject \$151 million into the economy and creating up to 300 full time equivalent construction jobs.

Achieving Equity, Liveability and Social Inclusion:

- Proposing building envelopes in a spatial arrangement around communal and foreshore open space areas to encourage social cohesion and interaction.
- Satisfying equity, liveability and social inclusion objectives through connections to transport, existing local communities and local and/or regional social and economic opportunities.
- Providing opportunities to deliver and contribute towards affordability, sustainability, healthy living, safety-by-design objectives and promoting the development of an inclusive place.

The Draft Inner West Subregional Strategy which incorporates the Canada Bay, Leichhardt, Burwood, Ashfield and Strathfield LGAs, is the agreed NSW Government position to guide sustainable growth and economic development within the Inner West Subregion for the period 2006 - 2031. Implementation of the Subregional Strategy is underpinned on a whole of government basis through the Action Plans outlined in the NSW State Plan. Relevantly, the Strategy aims to provide 30,000 new dwellings by 2031 to accommodate the expected population growth in the subregion over the next 25 years. The proposal is consistent with the Strategy as it will contribute to the delivery of the following housing delivery objectives:

- increasing the housing capacity within an established area to take advantage of existing services and infrastructure;
- facilitate a more appropriate housing mix close to jobs, transport and services recognising the existing and project demographic make-up;
- improve housing affordability; and
- provision of a residential development that is capable of achieving the design quality initiatives established by the Government in SEPP 65 and the RFDC.

APPENDIX F VIEW ANALYSIS

Prepared by Cox Richardson Architects within the PPR

2.2 Land Use

To date, most recent development has been undertaken on relatively small fragmented sites. Such developments cannot significantly contribute to an improved public domain which is required in a formerly industrial area.

Similar industrial “brownfield” sites where there are large amalgamated ownerships have enabled integrated master planning and public domain upgrades.

Because of the generally fragmented ownership at Majors Bay there is little sign of a greater vision for the transformation of the area, as former industrial uses are replaced with predominantly small scale residential uses of increasing density.

The proposal is a consolidated plan, being a master planned and coordinated approach, which unites 28 individual land blocks and provides a coherent basis with beneficial public domain upgrades for the benefit of the larger development context of the Mortlake peninsula.

2.3 Built Form

The recent approvals for successive stages of the Breakfast Point development to the east have also set a precedent of taller built form on the peninsula.

It is proposed that some increase in height be achieved above the permitted LEP height in specific locations across the three sites. This will provide benefits in amenity by allowing increased building separation, a more generous public domain, optimisation of highly sought views, at the same time, overshadowing effects will be minimised.

2.4 Heritage

Whilst there are no listed heritage items occurring on the site, a number of heritage items exist within the broader context of the site including the Dame Eadith Walker Hospital, Punt Park, shops and residences (refer to the heritage diagram).

2.5 Immediate Context (cont)

View Point Locations

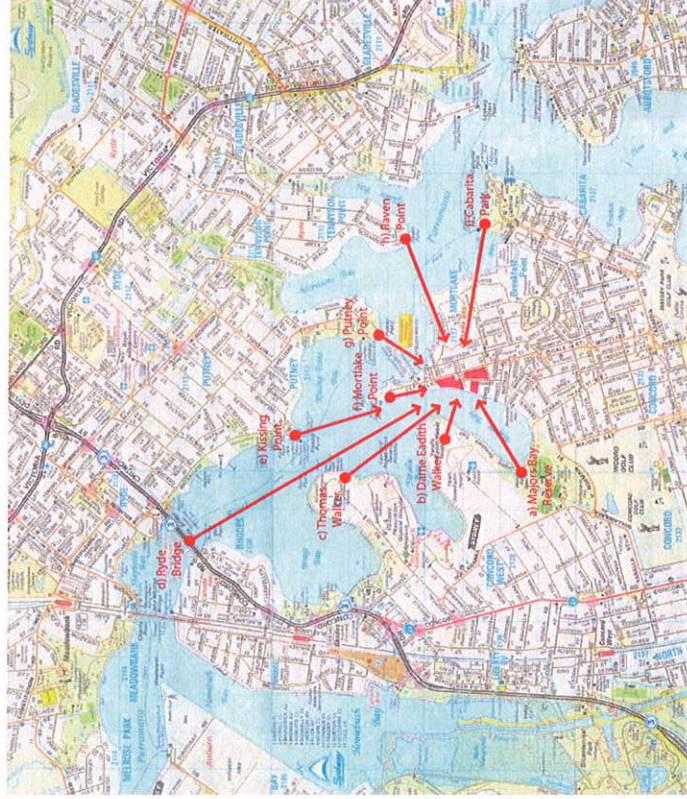


Figure 5

Note that key viewpoints have been studied. These viewpoints are taken from the public domain including heritage sites. The proposed built form at Majors Bay responds positively to these views as demonstrated in the following analysis.

2.6 View Analysis (cont)

c) Thomas Walker Hospital, Rocky Point (Figure 8)

View from north-west across Yarralla Bay. Generally views to Mortlake from the Hospital grounds are obscured by mangrove vegetation.



Figure 8

d) Ryde Bridge (Figure 9)

View from north-west along the Parramatta River. Thomas Walker Hospital.



Figure 9

2.6 View Analysis (cont)

g) Putney Point (Figure 12)

View from above the ferry crossing. The site is beyond approved Breakfast Point development. Note that site development will not be visible from Putney Park.

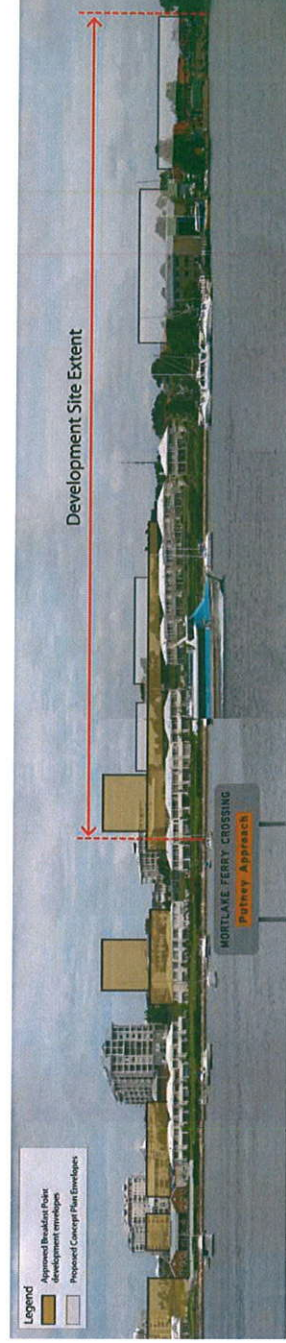


Figure 12

h) Raven Point (Figure 13)

View from north-east across Parramatta River. The site is obscured by the Breakfast Point development.



Figure 13

APPENDIX G VPA AND CONTRIBUTIONS CONSIDERATION

VPA Offer	Department's Consideration
Dedication of the public foreshore land	<p>Whilst Council is opposed to the development per se, if approval was granted it would be open to the care and control of the foreshore land.</p> <p>The instrument of approval will require the dedication of land to Council at no cost. This will address circumstances where a VPA is unable to be agreed between Council and the proponent and will ensure transfer of the foreshore lands to public ownership.</p>
Dedication of publically accessible through site link from Whittaker Street and from Northcote Street.	Council is opposed to the dedication of this land to its care and control. It is therefore proposed that this land remain in private ownership but have a requirement for public access on title. This requirement is included in the instrument of approval.
Implementation of resident parking scheme including relevant sign posting	Given Council's reluctance to enter into a VPA, it is considered that this issue is best resolved by Council rather than the applicant as it relates to the management and operation of existing public streets.
Provision of a car share scheme (such as Go Get)	Proposed works are works that the developer would reasonably be expected to be provided to support the development and are not considered to warrant a Section 94 offset.
Provision of a bicycle to each unit with 2 bedrooms or more	Proposed works are works that the developer would reasonably be expected to be provided to support the development and are not considered to warrant a Section 94 offset.
Street upgrades to public roads including re-surfacing, new kerb and guttering, footpaths and street planting	Proposed works are works that the developer would reasonably be expected to be provided to support the development and are not considered to warrant a Section 94 offset.
Infrastructure upgrades to stormwater and drainage systems including Gross Pollutant Traps and bio-retention.	Proposed works are works that the developer would reasonably be expected to be provided to support the development and are not considered to warrant a Section 94 offset.
Contributions to the upgrade of the intersections of Patterson Street and Wellbank Street intersections.	The traffic assessments indicate that the development does not trigger the requirement to upgrade intersections. Nonetheless, the proponent has offered to fund the upgrade of these two intersections. This is the type of work that would be appropriate to provide as a work in kind or material public benefit which is reflected in the instrument of approval.
Sea Wall – detailed studies and repair work	Council have requested that the repair of the sea wall be included as works are part of the community benefit required to allow for the substantial height and FSR uplift on the site. The Department concurs with this position. The applicant's statement of commitments includes detailed studies and repair work to this wall. The instrument of approval will require the dedication the repaired sea wall to be undertaken at no cost to Council. This will address circumstances where a VPA is unable to be agreed between Council and the proponent and will ensure works to the

VPA Offer	Department's Consideration
	seawall are completed.
Upgrade of the Whittaker Street bus stop.	The applicant is committed to upgrading the Whittaker Street bus stop as part of the streetscape upgrade works. It is acknowledged that consultation will need to occur with Transport for NSW on its requirements and implementation of the upgrade, which has been included as a requirement in the Instrument of Approval.

