

29 May 2014

**ADVICE ON STATE SIGNIFICANT DEVELOPMENT CALL-IN REQUEST
27 LEEDS STREET, RHODES**

1. Request for Advice

On 16 May 2014, the Planning Assessment Commission (the Commission) received a request from the Acting Secretary of the Department of Planning and Environment (the Department) for advice to assist the Minister for Planning (the Minister) in determining whether to call-in the above proposal.

The request was in response to an application made to the Department for the proposal to be declared State Significant Development (SSD). For this to occur, the Minister must obtain the advice of the Commission about whether the proposal is of state or regional significance (s89C(3) of the *Environmental Planning and Assessment Act 1979*).

The Minister's request for advice was accompanied by a report prepared by the Department, outlining its consideration of the proposal's significance.

2. The Proposal

The application to the Department was submitted on behalf of BH Australia Leeds 1 Pty Ltd and St George Community Housing.

The proposal is for a residential development containing 450 residential units, including approximately 225 affordable housing units (to be provided for a minimum period of 10 years). The affordable housing component is to be funded by the National Rental Affordability Scheme. Landscape and public domain improvement works also form part of the proposal

3. Previous Applications

The site is subject to a number of previous applications, as summarised below:

- On 2 September 2010, the then Director General of the Department of Planning and Infrastructure issued a Site Compatibility Certificate (SCC) for an affordable rental housing proposal on the site. The SCC was valid for two years.
- In November 2010, a Concept Plan Application and Stage 1 Project Application were lodged with the Department. The applications were declared Major Projects, however this was subsequently revoked following the repeal of Part 3A in October 2011.
- On 23 December 2011 a development application (DA) was submitted to Canada Bay Council for a proposal consistent with the SCC.

- On 6 June 2012 the Sydney East Joint Regional Planning Panel refused the DA for reasons including lack of a master plan for the strategic context, incompatibility with surrounding land uses and bulk and scale.
- On 9 September 2012 the then Director-General issued another SCC for a residential/ affordable housing proposal on the site. The SCC is valid for three years.
- In December 2012, the applicant submitted a request for the Minister to call-in a residential/affordable housing DA as SSD. The application was withdrawn before it was referred to Planning Assessment Commission.

4. Permissibility

The site is zoned IN1 General Industrial under the *Canada Bay Local Environmental Plan 2013*. Residential development is prohibited in this zone. However, *State Environmental Planning Policy (Affordable Rental Housing) 2009* allows for the development of residential flat buildings where a SCC has been issued. A SCC was issued on 9 September 2012 for an affordable rental housing proposal containing 450 dwellings (including at least 225 affordable units). Therefore, the proposal is permissible with consent.

5. Commission's Role

The Commission constituted to provide this advice consisted of Garry Payne AM (chair) and Abigail Goldberg.

As noted above, the Commission has been asked to advise on the threshold issue of whether the proposal is of state or regional planning significance. Under Cl.124E of the *Environmental Planning & Assessment Regulation 2000*, the Commission is required to consider any general issues relating to state or regional planning significance. The general issues are set out in *Guideline on 'call-in' of State significant development under the Environmental Planning and Assessment Act* (released on 9 December 2011) and are addressed in Section 7 below. In providing this advice, it is not the Commission's role to assess the merits of the proposal.

6. Consultation

On 23 May 2014 senior representatives of Canada Bay Council met with the Commission to outline its concerns, as detailed in a submission to the Department dated 16 January 2014. In summary, the Council opposes the declaration of the project as SSD because it considers the site to be of local significance only. Whilst it acknowledges that the proposal will provide affordable housing units, the council asserts that this should not be at the expense of good planning outcomes for the wider area. Council also noted that both the complexity and value of this proposal are less than other projects which they currently assess.

On 23 May 2014 the Commission also met separately with representatives of the proponent to discuss the request for the call-in. Planners for the proponent outlined the reasons why the application should be called-in to the Minister. A letter was subsequently received (28 May 2014) reiterating this viewpoint.

7. Commission's Findings

The Commission has considered the six general issues set out in Part 5 of the Minister's Guideline as well as the Department's report, the submission from the Council and the applicant's request for the SSD declaration. Its findings are outlined below:

1. *Whether the proposal is of regional or State importance because it is in an identified strategic location, or is critical in advancing the nominated strategic direction or achieving a nominated strategic outcome, contained in a relevant State policy, plan or strategy, or regional or sub-regional strategy.*

The Commission notes that Leeds Street, Rhodes is identified as a Strategic Foreshore Site under the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. However, the proposal involves the redevelopment of one property in isolation, rather than the precinct as a whole.

The Commission accepts Council's position that the site has local strategic significance, rather than state significance. In addition, the proposed residential land use is inconsistent with numerous state and local planning strategies, which show the site being used for industrial purposes. The Commission supports Council's assertion that studies of the entire precinct need to be prepared to determine whether a residential development would provide the best social and economic use of the land. A masterplan to be prepared by Council would then inform broad development controls for the precinct.

2. *Whether the proposal delivers major public benefits such as large-scale essential transport, utility infrastructure, or social services to the community?*

The applicant has advised that the project could satisfy this criterion through the delivery of (or contribution towards) a new public ferry wharf on the Rhodes peninsula. However, advice from Transport NSW indicates that a ferry wharf is unlikely to form part of this development due to navigational concerns. Therefore, the Commission agrees with the Department and Council that the proposal does not provide any large-scale essential infrastructure.

3. *Whether the proposal is likely to have significant environmental, social or economic impacts or benefits, be of a significant hazardous or environmentally-polluting nature, or is located in or in close proximity to areas or locations that have State or regional environmental, archaeological or cultural heritage significance.*

Although the proposal would have social benefits through the provision of approximately 225 affordable housing units for a minimum period of 10 years, the Commission is of the opinion that the development is not of state significance.

4. *Whether the proposal is of significant economic benefit to the region, the State or the national economy, such as those with high levels of financial investment and continuing or long-term employment generation.*

While it is acknowledged that the proposal will generate employment opportunities during the construction phase, the Commission agrees with the Council that there will be no

ongoing or long-term employment generation benefits or other significant economic benefits arising from the development.

- 5. Whether the proposal is geographically broad in scale, including whether it crosses over multiple council and other jurisdiction boundaries, or impacts a wide area beyond one local government area*

The site is located within the local government area of the City of Canada Bay only and is adjacent to Sydney Harbour. The Commission is of the opinion that the site has local impact only.

- 6. Whether the proposal is complex, unique or multi-faceted and requires specialist expertise or State coordinated assessment, including where councils require or request State assistance.*

The proposal does not require expertise beyond those of the council. The Commission accepts the advice of the Department and Council, that the application is consistent with the scale and complexity of those previously assessed by Canada Bay Council.

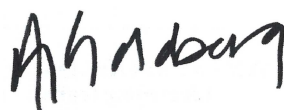
8. Conclusion

While the Commission supports the need for affordable housing, it is of the opinion that there is nothing specific about this application that distinguishes it from other residential development to render it state significant. The proposal is also not considered to have state or regional planning significance when measured against the six issues set out in the Minister's Guideline.

The Commission also notes to the importance of a masterplan for this site and surrounding foreshore area, and encourages Canada Bay Council to accelerate the process of preparing such a plan.



Mr Garry Payne AM
Commission Chair



Ms Abigail Goldberg
Commission Member