

submission to part 3A  
assessment of proposed  
mixed use redevelopment  
by Leichhardt Council



balmain leagues club precinct

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# 1 Introduction

## 1.1 Background

Situated on key development sites in Rozelle is the Balmain Leagues Club Precinct (the subject site). The site is located within an area bounded by Victoria Road, Darling Street, Waterloo Street and Moodie Street. The Balmain Leagues Club has occupied the site since the 1960's. The Club vacated the site in 2010 and since this time, the site has been largely vacant.

The Council has long acknowledged the potential for the redevelopment of the site. In 2005, the Master Planning process commenced for the Balmain Leagues Club Precinct, culminating in the gazettal of Leichhardt LEP Amendment No. 16 (29 August 2009) to facilitate the redevelopment of the Club. This support was predicated on the retention of the Club component and offered development incentives to support this outcome. A site specific Development Control Plan (DCP) was put in place to guide the future development of the site.

A Voluntary Planning Agreement (VPA) was executed to integrate the development of the site with the Local Centre and surrounding suburbs. The VPA attempted to offset any impacts by requiring a pedestrian link to Darling Street, a pedestrian bridge over Victoria Road, a community shuttle bus, a taxi drop off and collection point, a community car share scheme, a free delivery service, public domain upgrades and a community grant scheme.

In 2009, a Development Application (DA) for the redevelopment of the site was lodged with Council. The application was subject to extensive assessment and generated significant community interest. The Joint Regional Planning Panel (JRPP), a panel that stands separate from the Council process, subsequently refused the application for the following reasons:

*The Panel has resolved by consensus to accept the recommendation of the planning assessment report to refuse the application for the following reasons:*

- a) The proposal exceeds the FSR and number of storeys development standards of the LEP;*
- b) The proposal has an unacceptable impact on the traffic in the surrounding streets;*
- c) The proposal has not satisfied the Council's Design Review Panel on the quality of design;*
- d) The proposal does not provide high amenity within the apartments.*

The refused application was of a substantially reduced scaled compared to the current application.

The proposed use is identified in Clause 6 – identification of Part 3A projects of the *State Environmental Planning Policy (Major Development) 2005*. As the project is

a residential, commercial or retail use with a capital value exceeding \$100 million, at the time of lodgement, it was eligible to be considered as a Part 3A project under the *EP& A Act*.

On 19 January 2011, the proponents lodged a Part 3A application with the Department of Planning. On 15 February 2011, the then Minister for Planning declared the project to be a project to which Part 3A of the *EP& A Act* applies.

On 5 April 2011, the Director General's Requirements (DGRs) were issued to the proponents. As the DGRs were issued prior to 8 April 2011, under the now Department for Planning and Infrastructure's transitional provisions relating to Part 3A applications, it remains a Part 3A project and the Minister, his delegate or the Planning Assessment Commission, is the determining authority.

In April 2012, the proponents lodged an Environmental Assessment for an application that is, on a scale, vastly different from the proposal lodged early in 2011 under Clause 75E of the *EP& A Act*. The DGRs were based on a development on a much reduced scaled.

The Environmental Assessment has been placed on public exhibition from 18 April until 18 June 2012.

The proposal is for a significant redevelopment of the Balmain Leagues Club site. The proposal represents a significant change to the current land use of the site; the envisaged land use for the site (under Leichhardt LEP 2000, DCP 2000 or draft LEP 2011) and the hierarchy of centres within the Inner West Subregion.

## **1.2 This submission**

Leichhardt Council commissioned Willana Associates Pty Ltd (Willana) to provide an independent appraisal of the Balmain Leagues Club (the Club) proposal for the redevelopment of the Balmain Leagues Club site. In addition, Council has commissioned Leyshon Consulting to review the economic impact of the proposal, including an investigation into the impact of the proposed retail floor space upon surrounding centres and local Main Street shopping precincts. ARUP has also been engaged in the process to undertake a review of the traffic access and transport component's of the proponent's scheme for Council.

Council also appointed a Design Review Panel to review the scheme and provide independent advice on the architectural and urban design merits of the proposal. This has resulted in a detailed assessment of the scheme against the requirements of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development. Council's submission outlines its concerns and seeks the support of the NSW Planning Assessment Commission (PAC) in pursuing a development that minimises impacts to the surrounding community.

The typology of centres as identified in the *Inner West Subregion – draft Subregional Strategy* (the Strategy) has been adopted for the purposes of defining

the retail and commercial core of Rozelle. Under the Strategy, Rozelle is divided by Victoria Road into two areas, Rozelle North and Rozelle South.

The subject site is located within Rozelle South. Under the Strategy, Rozelle North and South are identified as “small villages”. Small villages have a walking catchment radius of between 400m – 600m.

While the proponent has named the proposal “Rozelle Village”, the proponent is not basing the name on the typology of centres as identified in the framework of strategic planning documents that guide the development of the centres in Sydney. The proposal represents an uplift of the Rozelle’s centre type from “small village” to something more akin to a “town centre”.

This submission demonstrates that:

- The proposal fails in terms of its urban design and architectural merit and would result in poor amenity for future residents and users of the retail area.
- The development would have significant impact on surrounding residential streets and the future trading of the existing retail shopping strip characteristic of Rozelle.
- The proposal will result in unacceptable impacts on the surrounding traffic network, including Victoria Road.
- The proposal provides no justification for putting aside the well considered planning outcomes that Rozelle should remain a "small village". In contrast, the provision of a larger centre cannot be supported under the current State and Regional strategies for the locality.
- The proposal is not supported in its current form by a number of key relevant authorities, including Airservices Australia and RMS.

The development of the site requires careful consideration as to how the combination of land uses will operate in harmony to deliver quality outcomes for the community and future occupants as mandated when Council agreed to rezone the site for redevelopment in 2008.

Notwithstanding the above, the locality has evolved since 2008. In recognition of this situation and the decision by the JRPP, Council has resolved to back zone the site to reflect the existing nature of the surrounding “High Street” centre. This will provide Council with the opportunity to undertake a fresh round of traffic, retail and social impact studies to determine an appropriate future zoning and suite of development controls.

Council seeks the support of the Department of Planning and Infrastructure and the Planning Assessment Commission in pursuing this line of action.

## 2 The History

### 2.1 A Planning Overview

Leichhardt Council has long acknowledged that there was some potential for redevelopment of the Balmain Leagues Club Precinct<sup>1</sup>, particularly given the role that the Club has played as a community focus. In 2005, the master planning process commenced for the Balmain Leagues Club Precinct. The general objectives of the master planning process were to facilitate the redevelopment of the Precinct that involved preserving the longevity of the Club along with various mixed use outcomes including commercial and residential uses.

The Council ultimately supported the amendment of the Leichhardt Local Environment Plan 2000 (LLEP 2000) to facilitate the redevelopment of the Club with the gazettal of Leichhardt LEP Amendment No. 16 (29 August 2009). This support was predicated on the retention of the Club component and delivered floor space and height outcomes that would facilitate the retention.

A site specific Development Control Plan (DCP) was put in place to guide the future development of the site. The planning controls sought to supplement the club facility with other uses that would provide a harmonious development outcome, not only with the uses on the subject site, but with the surrounding area. The general objectives in the DCP demonstrated the intentions for redevelopment of the site:

- *To provide a planning and urban design framework that guides the redevelopment of the Balmain Leagues Club Precinct.*
- *To enable the redevelopment of the Balmain Leagues Club Precinct as a consolidated parcel.*
- *To encourage well designed development with articulated height and massing.*
- *To promote development that links to and contributes to the ongoing vibrancy and viability of the Rozelle Commercial Centre.*
- *To promote the long term viability of the Balmain Leagues Club on the site, for the benefit of the local community.*
- *To promote low and moderately priced housing through a mix of dwelling types.*
- *To ensure an integrated and well designed public domain environment that supports the existing Rozelle commercial area.*
- *To promote ecologically sustainable development.*

A VPA was also executed so as to ensure that the redevelopment of the club site integrated into the local centre and the surrounding suburbs. The VPA attempted to offset any impacts by requiring a pedestrian link to Darling Street, a pedestrian bridge over Victoria Road, a community shuttle bus, a taxi drop off and collection

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<sup>1</sup> The Balmain Leagues Precinct does not include 17 – 19 Waterloo Street or 172 Victoria Road, which now form part of the subject application.



point, a community car share scheme, a free delivery service, public domain upgrades and a community grant scheme.

A development application was lodged with Council on 3 September 2009 (D/2009/352) seeking approval for the major redevelopment of the site and the construction of mixed use, plaza development. The application provided for 145 residential dwellings; commercial; mixed business and public open space as well as allocation of floor space for the future use by the Balmain Leagues Club subject to a future DA. The proposal included thru site links, additional public domain and plaza, parking (at a reduced rate) for 467 cars, loading and unloading bays, infill building on Darling Street and the construction of a pedestrian bridge across Victoria Road and located partly on Rozelle Public School.

The DA was recommended for refusal by Leichhardt Council planning officers and subsequently refused by the Sydney East Joint Regional Planning Panel (JRPP) on 8 July 2010. The Panel resolved as follows:

1. *The Panel has resolved by consensus to accept the recommendation of the planning assessment report to refuse the application for the following reasons:*
  - a) *The proposal exceeds the FSR and number of storeys development standards of the LEP;*
  - b) *The proposal has an unacceptable impact on the traffic in the surrounding streets;*
  - c) *The proposal has not satisfied the Council's Design Review Panel on the quality of design;*
  - d) *The proposal does not provide high amenity within the apartments.*
2. *In any future application the Panel would require:*
  - a) *Complete compliance with the development standards of the LEP;*
  - b) *A report by a traffic expert agreed on by the Council and the applicant that deals with community concerns about traffic and assures the Panel that the traffic impacts are acceptable;*
  - c) *Satisfaction by the Design Review Panel that the proposal is of high design quality and the apartments are of high amenity.*
3. *As concerns the pedestrian overbridge, the Panel believe that it is desirable. However, if the applicant's and Council's best efforts fail to obtain owner's consent, the traffic study must take into account the absence of the bridge.*

It is stated in the proponent's Environmental Assessment for the current proposal that the issues raised in the assessment of the previous application ...*"have provided a good indication of the key issues that should influence the future development of the site and the concerns of the local community and as such have been considered in preparing the current proposal. The development concept originally proposed has been refined and enhanced with particular regard to the reasons for refusal specified by Leichhardt Council and the JRPP together with*

*further site analysis and stakeholder consultation (including community consultation), culminating in the submission of this Major Project application.”*

In 2011, Council finalised its new comprehensive Local Environmental Plan to replace the LLEP 2000. The Council has forwarded the draft Leichhardt LEP 2011 to the NSW Department of Planning and Infrastructure in order to obtain a Section 65 certificate to exhibit the document.

As part of the process of translating the LLEP 2000 into the new comprehensive LEP, Council reviewed the Balmain Leagues Club site specific controls. The report to Council, on 21 June 2011,<sup>2</sup> includes the following reference to the subject site:

*The current site specific controls for the Balmain Leagues Club include objectives and specific floor space ratios (FSR) for the uses permitted on the site. However, the Standard Instrument has a significantly different definition for floor space than LEP 2000. As a consequence it is technically difficult to translate the current FSR controls for the Balmain Leagues Club into FSR controls based on the new definition.*

*As draft LEP 2011 is, at law, a new planning instrument, Council needs to be satisfied that the controls are reasonable, realistic and based on sound data. The current controls for former Balmain Leagues Club site were informed by a range of studies, assumptions and circumstances particular to the time when the controls were being prepared.*

*However, in the 5 years since the master planning for the Balmain Leagues Club site was initiated numerous events, decisions and developments have occurred that when combined bring into question the relevance of the current controls for the site, including:*

- *DA for Balmain Leagues Club refused by JRPP in 2010 (current controls found to be unworkable)*
- *New development proposed for Balmain Leagues Club Precinct site under Part 3A of Environmental Planning & Assessment Act 1979 (also an indication by the new owner that the current controls are unworkable)*
- *Ownership of Balmain Leagues Club has changed to an unrelated company removing traditional link to the community*
- *Additional properties surrounding the club have been purchased by new owner meaning former Balmain Leagues Club Precinct has expanded beyond that identified in current controls (making current control obsolete)*
- *118-120 Terry Street, Rozelle (Anka) rezoning proposal is being considered*
- *CBD Metro proposal has been excluded from the Metropolitan Transport Plan 2010*

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<sup>2</sup> Tem 17C – Translation of site specific controls from LEP 2000 to Draft LEP 2011 – Former Balmain Leagues Club

- *Callan Park master planning process underway*
- *Inner West Busway completed with significant changes to the traffic management within Rozelle*
- *Bays Precinct Master planning process unresolved*
- *Cruise passenger terminal approved*
- *Super yacht marina proposal under assessment*
- *Baileys refuelling facility approved*
- *Inner West Light Rail Extension approved*
- *Harold Park rezoning proposal approved*
- *Numerous supermarket developments in region are actively being considered by the Department of Planning*

*In light of these changes, Council is currently considering what controls should apply to the Balmain Leagues Club Precinct site under Leichhardt's Draft LEP 2011. Options are:*

1. *Translate existing controls with the risk they may result in a different outcome to that contemplated by Amendment 10 to LEP 2000;*
2. *Undertake a fresh round of traffic, retail and social impact studies to redetermine the most appropriate zoning; or*
3. *Use the prevailing controls (business) for the site and invite the new owners to lodge a fresh planning proposal if the Part 3A Project Application is refused.*

*While option two is preferred, Council would need to allocate significant funds to commission the necessary studies and this work may be redundant if the Part3A Application is approved.*

*Council resolved: That the draft LEP 2011 not have any site specific controls for the former Balmain leagues Club site and zoning of these properties be consistent with the proposed zoning of the adjoining properties.*

Consequently, under the draft LEP 2011, the site is proposed to be zoned B2 Local Centre with a translation of the current 1.5:1 FSR that applies to Council's existing business zone properties.

## **2.2 The Council's Design Review Panel for the previous proposal**

The Council formed a Design Review Panel (the Panel), consistent with the processes outlined in SEPP 65, to review the previous proposal (D/2009/352) for the site, in detail.

The framework for the Panel's deliberations was the ten (10) Design Quality Principles of SEPP 65 and the Residential Flat Design Code published by Planning NSW (September 2002). This planning framework remains current.

The Panel's report raised significant concerns with the design of the proposal and recommended that a major review would be required before the proposal could be considered satisfactory. The Panel's report concluded that "*The Panel still has significant concerns about the scheme's shortcomings and cannot support the DA in its current form,*" (p.8).

The panel suggested a comprehensive review of the proposal and the submission of more detailed plans. They also suggested that the current design did not provide a "*convincing facade solution that deals with the environmental and acoustic conditions of the site*" (p.8). These design issues extended to mitigating the significant consequences of the proposed development in terms of potential visual and acoustic privacy impacts.

The Panel identified a number of detailed design shortcomings including issues with:

- The Victoria Road frontage
- The Waterloo Street frontage
- The Lane
- The walkway to Darling Street
- The public domain including the new plaza
- The Victoria Road footbridge
- The built form
- The levels of residential amenity

The extent of their concerns led the Panel to conclude that the application should not be approved in its current form. The Council and JRPP accepted the advice of the Panel in their refusal of the application.

As discussed later in this submission, the Panel have been further commissioned to review the current scheme.

# 3 The Proposal

## 3.1 A Comparative Table of Current and Past Schemes

A table demonstrating the difference between the previous DA, refused by the JRPP on 8 July 2010 and the current proposal is provided at Appendix A. The table demonstrates, dramatically, the contrasting outcomes and the extent to which the previous refusal has been ignored.

## 3.2 The Applicants Response to the JRPP

The proponent has deviated significantly from the planning controls and parameters outlined in the JRPP decision to refuse the application. The proponent has attempted to respond to the JRPP's reasons for refusal in setting up key outcomes for the development, and in so doing, has set aside the JRPP recommendations. The applicant's response has been considered in Table 1 below along with an assessment demonstrating the shortcomings in response.

**Table 1: Comment on the consideration of JRPP reasons for refusal of D/2009/352.**

| JRPP reasons for refusal   | Proponent's Design Response – extract from the Environmental Assessment  | Comment  |
|--|--|--|
| <p><b>Compliance with LEP controls</b></p> <ul style="list-style-type: none"> <li>The proposal exceeds the FSR and number of storeys development standards of the LEP.</li> </ul> <p>In any future application the Panel would require:</p> <ul style="list-style-type: none"> <li>Complete compliance with the development standards of the LEP.</li> </ul> | <p>D/2009/352 was lodged under Part 4 of the <i>EP&amp; A Act</i>. In the determination of the proposal, the JRPP was required to give significant weight to the development standards specified in the LEP as required by legislation.</p> <p>The scope and value of the current proposal triggers assessment and determination under Part 3A of the <i>EP&amp; A Act</i>. The Part 3A assessment process allows for a merit based approach to the determination of significant projects rather than the strict application of the development standards of the relevant local environmental plan. Consideration of the environmental, economic and social impacts of the proposal remains critical to the assessment process.</p> <p>The particular type of proposal</p> | <p>The proposal exceeds the maximum FSR under LLEP 2000. The FSR under LLEP 2000 for the Balmain Leagues Club Precinct is 3.9:1. The current application proposes an FSR of 7.15:1 (applying the definition of GFA under LLEP 2000).</p> <p>The maximum number of storeys under LLEP 2000 applying to the Balmain Leagues Club Precinct is 12. The proposal includes two towers with 26 and 32 storeys respectively.</p> <p>Under former Clause 75F of Part 3A of the <i>EP&amp; A Act</i>, the Director-General is to prepare environmental assessment requirements (DGRs). The Environmental Assessment must address these requirements.</p> <p>The DGR's issued on 5 April 2011 for the proposal requires that the Environmental Assessment addresses relevant EPIs, policies</p> |

| JRPP reasons for refusal | Proponent's Design Response – extract from the Environmental Assessment  | Comment  |
|--------------------------|--|--|
|                          | <p>and location in which it is situated means that a higher density and form than that which was envisaged under the Balmain Leagues Club Precinct Masterplan and to which the height and density controls specified in the LEP have been tailored toward can be pursued. In exceeding these controls it is appropriate to consider the particular context (within a commercial centre and adjacent to a strategic transport route) in which the proposal is located as a guide to appropriate height and density rather than rigid compliance with the LEP development standards.</p> | <p>and guidelines, including the nature and extent of any non-compliance with relevant EPs, plans and guidelines and justification for any non-compliance – including the Leichhardt LEP 2000 and Leichhardt DCP 2000. The DGR's require due consideration of the local planning controls and have given weight to the local planning provisions.</p> <p>The Environmental Assessment does not adequately justify the non-compliance with the EPs referred to in the DGR's.</p> <p>The proponent has not undertaken a social impact analysis of the proposal and the economic impact assessment is inadequate.</p> <p>It is noted that changes to the legislation since the DGR's were issued mean that if it were not for the savings provisions, the proposal would be required to be lodged with Council for assessment, reported to the JRPP and subject to the requirements of the provisions of Part 4 of the <i>EP&amp; A Act</i>.</p> <p>Given the site's constraints, in particular traffic and transport and Council's desire to maintain the "High Street" character of Rozelle, the local planning framework has envisaged a smaller scale outcome for the site.</p> <p>The macro level planning framework (NSW Metropolitan Plan and the draft Inner West Subregional Strategy) also consistently identify Rozelle as a small village with a walkable catchment of between 400 – 600m.</p> <p>The context of the site has guided the planning framework for the site. As identified in the sub regional strategy, the site is within a small village strip shopping centre on a transport corridor with high constraints.</p> |

| JRPP reasons for refusal  | Proponent's Design Response – extract from the Environmental Assessment   | Comment   |
|---|---|---|
|   |   | The Economic Report by Leyshon Consulting (Appendix B) and Traffic Assessment by Arups (Appendix C) support that Rozelle should remain as a small village.  |
| <p><b>Traffic Impact</b></p> <ul style="list-style-type: none"> <li>The proposal has an unacceptable impact on the traffic in the surrounding streets.</li> </ul> <p>In any future application the Panel would require:</p> <ul style="list-style-type: none"> <li>A report by a traffic expert agreed on by the Council and the applicant that deals with community concerns about traffic and assures the Panel that the traffic impacts are acceptable.</li> </ul> | <p>The site has been enlarged and includes additional parcels of land to the north of the original Balmain Leagues Club Precinct site. This allows for considerable improvements to access and egress arrangements resulting in a superior approach to traffic management.</p> <p>A comprehensive analysis of traffic impacts arising from the proposed development has been undertaken and this assessment has confirmed that the proposal will not result in significant adverse traffic impacts on Victoria Road or the other roads surrounding the site.</p> <p>Vehicular access for commercial and residential users is separated with a dedicated access for residential users provided on Waterloo Street. Commercial users will access the site from Victoria Road.</p> <p>Importantly, pedestrian access and connectivity plays a central role in the design concept. Pedestrians will be able to access the site from all three road frontages.</p> | <p>The traffic impacts of the proposal are unacceptable. The Environmental Assessment has not adequately addressed traffic impacts on local surrounding streets as evidenced by Council's independent assessment.</p> <p>See attached report by Arup's (Appendix C).</p> <p>The Council appointed Design Review Panel are highly critical of the proposal and the lack of connectivity to the surrounding streets for pedestrians (refer to Design Review Panel Report at Section 6.4).</p> <p>A further concern is the inadequate access into the residential towers for pedestrian and vehicular access. The residential parking level is located on level 8 of the basement parking. The proposed location of pedestrian access, adjacent to the loading dock and fronting Victoria Road, does not provide a quality design outcome.</p> |
| <p><b>Design Quality</b></p> <ul style="list-style-type: none"> <li>The proposal has not satisfied the Council's Design Review Panel on the quality of design.</li> </ul> <p>In any future application the Panel would require:</p> <ul style="list-style-type: none"> <li>Satisfaction by the Design Review</li> </ul>   | <p>As with the earlier DA lodged with Leichhardt Council which was subject to review by the Council's design panel, this application has been subject to a rigorous design review process. An independent Design Review Panel, comprising some of Sydney's leading architects, has reviewed the application. The project architects met regularly with the Panel to discuss the scheme and the</p>  | <p>The Council appointed independent DRP is comprised of representatives from various Design Review Panels around Sydney. The group have reviewed the current application and have found it lacking in a significant number of areas. They do not support the proposal and have provided a detailed report outlining these concerns.</p> <p>(SEE DRP Report at Section 6.4).</p>  |

| JRPP reasons for refusal   | Proponent's Design Response – extract from the Environmental Assessment  | Comment  |
|--|--|--|
| <p>Panel that the proposal is of a high design quality and the apartments are of high amenity.</p>                               | <p>design has evolved in response to their comments.</p> <p>The evolution of the design of the scheme is discussed in Section 3.</p>   | <p>Members of the proponent's independent DRP confirmed that the Department of Planning requested a DRP review of the proposal and nominated a list of participants.</p> <p>The brief from the developer to their own DRP was very specific and the Panel was instructed not to discuss broader issues such as why a tower, or why the quantum of floor space. The proponent's DRP set out a list of outcomes that must be delivered for a quality building to be provided. These outcomes have not been met and the design was not put back to the panel to assess whether the outcomes were achieved.</p>  |
| <p><b>Residential Amenity of Proposed Dwellings</b></p> <p>The proposal does not provide high amenity within the apartments.</p> | <p>The current project provides a good standard of internal amenity for all proposed residential apartments consistent with the requirements of the RFDC. The proposal exceeds the requirements of SEPP65.</p> | <p>The Council appointed DRP concluded that the proposal fails to provide high amenity within the apartments given the opportunities for delivery of a high standard of development. In the context that the applicant is seeking a landmark building, the delivery of excellence should be paramount.</p> <p>In contrast, the Council's DRP has included in their comments that:</p> <p><i>Poor internal planning arrangements include:</i></p> <ul style="list-style-type: none"> <li>– A substantial quantity of single orientation apartments</li> <li>– 'snorkel' bedrooms with compromised access to light and ventilation,</li> <li>– Extremely poor entries to the SoHo apartments,</li> <li>– A high number of long thin entry corridors,</li> <li>– Overly deep balconies (many too deep and will exacerbate internal light levels),</li> <li>– Penthouse snorkel bedrooms with particularly bad access to windows and ventilation.</li> <li>– Poor location of residential entries – in particular the entry to Building B2 that is adjacent</li> </ul> |



| JRPP reasons for refusal  | Proponent's Design Response – extract from the Environmental Assessment   | Comment  |
|---|---|--|
|   |   | <p><i>the car and truck entry on Victoria Road.</i></p> <p>In contrast to the excellence that is expected of a building purported as "landmark", these outcomes are unsatisfactory. The building design fails to achieve the criteria that even more modest buildings would see as a standard expectation of delivery. Further details of the Panel's concerns in relation to residential amenity are included in the DRP assessment at Section 6.4.</p> |
| <p><b>Pedestrian Bridge</b><br/>As concerns the pedestrian overbridge, the Panel believe that it is desirable. However, if the applicant's and Council's best efforts fail to obtain owner's consent, the traffic study must take into account the absence of the bridge.</p> | <p>This proposal does not include a pedestrian footbridge over Victoria Road but nor would it prevent opportunities for the introduction of a future bridge from the proposed development (subject to landowners consent being obtained for land outside the ownership and control of the proponent).</p> | <p>A pedestrian bridge is not proposed. It is Council's position that the VPA remains current and a pedestrian bridge must be provided.</p> <p>Furthermore, the need for the bridge is increased significantly with the increase in scale of the development, and the expected pedestrian movements to and from the site.</p>  |

### 3.3 Photomontages

A series of photomontages were commissioned by Council to demonstrate the possible contextual outcomes of the development. Council has also compared these outcomes with the refused proposal considered by the JRPP and samples are provided on the following pages. A complete set of photomontages commissioned by Council are provided at Appendix D.



**Photograph 1: Previously JRPP refused proposal viewed from the corner of Terry Street and Victoria Road prepared by dK0 Architecture Pty Ltd**



**Photograph 2: Current application viewed from South of Terry Street (near the corner of Crystal Street and Victoria Road) prepared by Haycraft Duloy Pty Ltd on behalf of Leichhardt Council.**



**Photograph 3: Previously JRPP refused proposal viewed from Cambridge Street and Darling Street prepared by dK0 Architecture Pty Ltd**



**Photograph 4: Current application viewed from near the corner of Denison Street and Darling Street prepared by Haycraft Duloy Pty Ltd on behalf of Leichhardt Council.**



**Photograph 5: A distant view demonstrating the relative height of the proposed building against the city skyline prepared by Haycraft Duloy Pty Ltd on behalf of Leichhardt Council.**



# 4 The Planning Framework

## 4.1 Introduction

The identification of this project as a “Major Development” inherently creates issues for the assessment process given the absence of particular planning controls including development standards. Accordingly, this submission has carefully reviewed higher level planning frameworks that are used to guide future planning outcomes for planning outcomes affecting the subject site. These policies, which are in the form of State, Metropolitan and Regional policies, have been thoroughly reviewed to provide the framework within which this application must be assessed.

It is clear from that assessment, that the proposal represents a potentially dramatic change to the locality in terms of the typology of the foreshadowed retail centres in the Inner West. Under the *Inner West Subregion – Draft Subregional Strategy (2008)*, Rozelle is characterised as a “small village”. Small villages are identified in the draft Subregional Strategy as having a *walking catchment with a radius of approximately 400m*.

This proposal foreshadows a significant change to the envisaged ‘small village’ as defined in the Strategy and has a number of significant failings. A significant contradiction is the development’s proposed increase in density without the support of adequate transport infrastructure.

Rozelle has been consistently identified in the relevant State policy, Metropolitan policy, Subregional or Local policy level as a site that can only sustain a ‘small village’ outcome. The potential of the site is heavily influenced by transport constraints and the existing retail hierarchy. Both factors indicate that the future of the site as a ‘small village’ is the sensible planning outcome.

Accordingly, the proposal, for a substantial retail and commercial precinct, cannot be sustained and is inconsistent with the planning framework which governs the ordered and sustainable development of the site and the NSW Government’s centre’s hierarchy.

## 4.2 State Policy

The *New South Wales State Plan 2021: A Plan to Make NSW Number One* (NSW 2021), was released in September 2011. This is a ten (10) year plan aiming to guide the restoration of the economy; return quality services; renovate infrastructure; restore Government accountability and strengthen local environment and communities. It is the NSW Government’s strategic business plan.

The Plan is developed around nine (9) key policy areas. The proposal fails to meet the following key goals:

▪ **NSW 2021: Return Quality Services, Goal 7 – Reduce Travel Times**

Goal 7 of the Return Quality Services Chapter of NSW 2021 is to reduce travel times. The Government's targets include *to improve the efficiency of the road network during peak times on Sydney's road corridors and minimise public transport waiting times for customers.*

Whilst Victoria Road was identified under the *Metropolitan Plan for Sydney 2036* as an Enterprise Corridor, under the Government's most current document: *Sydney Over the Next 20 Years: A Discussion Paper (May 2012)*, Victoria Road is identified as **a transport corridor with high constraints**.

The efficient flow of traffic along busy roads and transport corridors should be a key consideration in the location and growth of centres and major traffic-generating developments. The assessment process verifies that the site has a number of traffic constraints and that development of significant size will result in significant traffic congestion. Council commissioned Arup to undertake an independent review of the Transport Assessment prepared as part of the Part 3A Planning Application for the site. Arup conclude:

*The existing street network around Rozelle is currently operating near capacity and occasionally approaches gridlock. Saturday morning is a particularly vulnerable time for the network as a result of numerous activities in the vicinity, including Rozelle and Orange Grove Markets...*

*The traffic modelling conducted by Arup indicated that the traffic likely to be generated by the Rozelle Village Development and including development in the Terry Street precinct would result in the overloading of Rozelle's street network on Saturday mornings...*

*The analysis undertaken by Arup concludes that the scale of development proposed for Rozelle Village cannot be accommodated without significant impacts on the local business and residential communities.*

A full copy of the Arup report is provided at Appendix C.

As outlined in the NSW Department of Planning *Draft Centres Policy*<sup>3</sup> *It has been estimated that the costs of congestion in Sydney (including private time costs, business costs, operating costs and additional pollution) could rise by over \$3 billion by 2020*<sup>4</sup>. Therefore, it is vital that the planning system supports the Government's objective to improve the efficiency of the road network by ensuring that access to centres and major retail, commercial and residential developments does not lead to adverse traffic safety or congestion impacts.

Strong transport connections are vital to the State's economy. This is also highlighted in *Sydney over the Next 20 Years Discussion Paper (May 2012)*, which includes: *Business movements are essential to Sydney's economic growth and*

<sup>3</sup> NSW DoP (2009), *Draft Centres Policy Planning for Retail and Commercial Development*.

<sup>4</sup> Bureau of Transport and Regional Economics (2007), *Estimating urban traffic and congestion cost trends for Australian Cities*.

*productivity. An inefficient transport network will increase the cost of moving freight, and congestion has a wider economic cost: the costs of congestion were estimated to be \$3.5 billion in 2005 in Sydney, and, if unchecked, this could rise to \$7.8 billion by 2020<sup>5</sup>.*

Leichhardt Council has engaged consultants (Arups) to undertake an independent peer review of the Environmental Assessment in relation to traffic and transport. The findings of the reports by Leyshon Consulting (Appendix B) relating to the economic impacts of the development and also and Arups (Appendix C) relating to traffic and transport, indicate that the proposal would not achieve the State Government's Goal 7 - Return Quality Services of NSW 2021. The proposal will reduce the efficiency of the road network surrounding the site during peak times.

▪ **NSW 2021: Renovate Infrastructure, Goal 20 – Build Liveable Centres**

The NSW Government's target under the Build Liveable Centres goal is for *planning policy to encourage job growth in centres close to where people live and to provide access by public transport*. Under priority actions to achieve this target NSW 2021 includes:

*Actions to achieve this target are detailed in the metropolitan, regional and subregional strategic plans and include:*

*Deliver a metropolitan strategic planning framework which details housing and employment growth targets and key planning principles to facilitate the urban development required to increase employment and housing within public transport catchments*

*Outline clear subregional local housing and employment targets to be delivered by councils through local land use plans.*

*Work closely with local councils and communities to deliver local land use controls that identify land use zonings and appropriate development outcomes to support the delivery of housing and employment targets in the metropolitan and regional strategies.*

NSW 2021 provides the framework for metropolitan, subregional and local planning to undertake the necessary detailed studies in order to deliver the Government's housing and employment targets in a sustainable way. Leichhardt Council has recently undertaken the process of preparing a new comprehensive Local Environmental Plan (draft Leichhardt LEP 2011<sup>6</sup>) in accordance with the Standard Instrument. During the process of preparing the draft instrument, Council has prepared background studies to support the document. In preparing its new comprehensive LEP, Leichhardt Council was required to consider the draft *Inner West Subregional Strategy* and demonstrate how draft LLEP 2011 gives effect to

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<sup>5</sup> NSW Government (2012) *Sydney over the next 20 years Discussion Paper*.

<sup>6</sup> Council has lodged the draft with the DoPI and are waiting for the Section 65 Certificate to formally exhibit the document.

housing targets and employment targets as set out in the draft *Subregional Strategy*.

The first stage of the *Leichhardt Residential Development Strategy* confirms that under current planning controls, Council can meet the State Government's housing target for the Leichhardt LGA without the need to upzone land<sup>7</sup>.

It is noted that the Metropolitan Development Program 2010/2011 Report no longer identifies the Balmain Leagues Club Site as a major site (i.e. a site with the potential to accommodate 50+ additional residential dwellings). This is no doubt in recognition of the constraints to the growth of the locality as a result of the at capacity transport infrastructure in the vicinity of the site. This is supported by the NSW Government's *Sydney over the next 20 years Discussion Paper (May 2012)*, which identifies Victoria Road as a corridor with high constraints.

The proponent's Urban Design Report lodged in support of the Environmental Assessment confirms that there is no evidence to support the increased scale to the Rozelle "small village":

*Rozelle's ridgetop location and the presence of Victoria Road, a major road in the City's movement network, means that it has the potential to enjoy high visibility and significant views to/from and into/out of the area from the public and private domain.*

*Collectively, these features provide the opportunity for a landmark development to contribute to the image generation of inner and harbourside Sydney from its eastern and western approaches. It also provides for the establishment and enjoyment of good quality views of the harbour from upper levels of any building by Rozelle's residents.*<sup>8</sup>

The ridgetop location and proximity to a major road are not adequate planning justification for the site to support a "landmark" building. There are a significant number of sites within the Metropolitan area that would meet these vague requirements but like this site, are unsuitable for the proposed outcomes. There is also no mandate to provide the increased density in these locations in the form of significant tower buildings that are inherently uncharacteristic of surrounding development.

Even if they were accepted as relevant criteria, a landmark building implies design excellence. As verified by the various design critiques, design excellence has not been achieved in the case of the proposed development.

The proposed development includes the construction of 304 residential dwellings. Rozelle does not display a number of characteristics typically found in higher order centres. The site is constrained by Victoria Road and there is lack of choice of public transport. The economic impact of the development is likely to have

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<sup>7</sup> Leichhardt Residential Development Strategy – Stage 1 (13 August 2010)

<sup>8</sup> Inspire Urban Design + Planning (12 April 2012) *Rozelle Village and The Victoria Road Corridor – Urban Design Assessment*. P.18.



detrimental effect on surrounding retail traders and an economic cost to NSW given the traffic impacts on Victoria Road.

### **4.3 Metropolitan Policy**

The *Metropolitan Plan for Sydney 2036* (the *Metropolitan Plan*) provides a broad framework for managing growth and development of Sydney over a 25 year period. The *Metropolitan Plan* aligns with a number of State Plan priorities, including promoting jobs closer to home and improving housing affordability.

The hierarchy of centres for the Sydney Metropolitan region is outlined in the Metropolitan Plan (see ).

Under the Metropolitan Plan's Centre Types, Rozelle is a village, i.e. a group of shops and services for daily shopping with a walkable catchment of 400 – 600m. The Metropolitan Plan identifies that the planning for local centres (i.e. neighbourhood centres, villages and town centres) should be led by local government in conjunction with the NSW Government.

The premise of the application put forward by the applicant is that the scale of the development can be supported because of its proximity to public transport and therefore it achieves a number of objectives of the *Metropolitan Plan*.

The proposal fails to achieve the following objectives of the *Metropolitan Plan* as outlined in Table 2.

**Table 2: Failings of the Proposal against objectives of the Metropolitan Plan**

| Action   | Comment   |
|--|---|
| <b>Strategic Direction A – Strengthening the City of Cities</b>  |   |
| <b>Action A2.1</b><br>Consider consistency with the city of cities structure when assessing alternative land use, infrastructure and service delivery investment decisions | <p><i>The city of cities approach identifies 5 cities of Sydney: Sydney CBD, North Sydney, Parramatta, Liverpool and Penrith.</i></p> <p><i>The five cities are to be supported by Major and Specialised Centres within a transport and economic network. Smaller local centres are spread within this framework, offering a focus for concentrations of housing, commercial activity and local services at different scales.</i></p> <p>Rozelle is not a major or specialised centre or even town centre as identified in the planning framework for NSW and Sydney. The potential of the site is heavily influenced by transport constraints and the existing retail hierarchy. Both factors indicate that the future of the site as a 'small village' is the sensible planning outcome.</p>  |
| <b>Strategic Direction B – Growing and Renewing Centres</b>  |   |
| <b>Action B1</b><br>To focus activity in accessible centres  | The road capacity (Victoria Rd, Darling Street and the local street network) and existing public transport capacity means that the site is not highly accessible and the proposal will result in reducing accessibility along a constrained transport corridor (see Arup Report at Appendix C). Consequently, the status of Rozelle, under the strategic planning framework, from State to regional, subregional and local level is consistently a “small village” with a walkable catchment of 400m – 600m.  |
| <b>Action B3.1</b><br>Plan for new centres in existing urban areas and Greenfield release areas.   | <p>The Metropolitan Plan includes that the appropriateness of locations for new centres will depend upon a range of factors including public transport access, proximity to good quality open space, primary schools, residential amenity of the area, heritage significance and adaptability of existing buildings, and market demand. Consideration should also be given to the impact of a new centre upon facilities and services in existing centres.</p> <p>The proposal cannot be supported in terms of its economic impact on the surrounding retail strip (refer to Leyshon Consulting Report – Appendix B), its impact on the surrounding roads (Arup report – Appendix C) and its failings in terms of urban design, residential amenity for future residents, surrounding residents and the proposed public domain (Council's DRP Report – Section 6.4).</p> <p>In addition, the increased density at the site will exacerbate the existing open space deficiency within the Leichhardt LGA. In 2004 Council commissioned Stratcorp Consulting to undertake a Recreation and Open Space Needs Study for the Leichhardt Local Government Area. The study, adopted in December 2005, provided direction for an integrated approach to open space and recreation planning and management for the next 10 years.</p> <p>The study identified that Leichhardt has significant deficiencies in open space provision. Leichhardt has an open space ratio of 1.65ha /1,000 people. The national standard is benchmarked at 2.8ha /1,000 people.</p> |

| Action  | Comment   |
|---|---|
| <b>Strategic Direction C – Transport for a Connected City</b>   |   |
| <b>Action C2.1</b><br>Ensure subregional housing and employment targets are informed by analysis of current and planned public transport capacity and availability. | <p>The proposal to create a new Town Centre at the site is not supported by the existing constrained road network or public transport network. The additional traffic generated from the proposed development will result in a drop in the level of service along the already constrained Victoria Road transport corridor.</p> <p>High density housing as proposed would be better located at unconstrained major transport nodes, such as railway stations providing direct access to the city and other employment regions within the Sydney Metropolitan Region.</p> <p>Arup was commissioned by Leichhardt Council to undertake an independent review of the Transport Assessment prepared by the proponent. A copy of Arup's report is at Appendix C. Arup's conclude that <i>the scale of development proposed for Rozelle Village cannot be accommodated without significant impacts on the local business and residential communities.</i></p> |
| <b>Strategic Direction D – Housing Sydney's Population</b>  |   |
| <b>Action D1.2</b><br>Reflect new subregional housing targets in <i>Subregional Strategies</i> and <i>LEPs</i> and monitor their achievement.                       | <p>Council's draft LEP 2011 is based on the outcomes of the Council's <i>Stage 1 – Residential Strategy</i>. The housing figures for the site in the <i>Residential Strategy</i> are based on the MDP (2008/2009), where the yield from the site was identified at 130 dwellings. In the 2010/2011 MDP the site is no longer identified as a major site.</p> <p>In the NSW Government's document <i>Sydney Over the Next 20 years: A Discussion Paper</i> (May 2012) Victoria Road is identified as a transport corridor with high constraints.</p> <p>These Government documents are supporting evidence that the site is not suitable for or identified for changing the hierarchy of the area.</p>   |

#### 4.4 Inner West Subregion – draft Subregional Strategy

The *draft Inner West Subregional Strategy (2008)* was prepared under the previous State Government. A number of initiatives and actions under the previous Government have not been pursued by the current Government and as a result, the document is outdated in some areas, such as transport actions for the Inner West (i.e. the North West Metro, including a station at Rozelle is not a priority action for the current Government).

The identified established hierarchy for the Inner West is as follows:

- Metropolitan Centres Policy – i.e. Global Sydney (Sydney City and North Sydney) Regional Cities, Specialised Centres and Major Centres.
- In the Inner West - 2 Strategic Centres (one Major Centre: Burwood and one specialised centre (Rhodes)).
- Smaller Local Centres:

*The subregional planning process identified more than 60 local centres in the Inner West. These were categorised as Towns, Villages, Small Villages or Neighbourhood Centres. Ashfield, Balmain, Leichhardt (Norton Street South) and Strathfield have been identified as Town Centres. The role of these Town Centres is discussed further in this chapter. There is a spread of Villages serving pockets of the population throughout the subregion. These include Five Dock, Drummoyne and Leichhardt Market Place. These centres are complemented by a fine-grained network of Smaller Villages and Neighbourhood Centres. These generally have a small strip or group of shops servicing daily shopping needs.*

The proposal fails to meet the following key directions of the subregional strategy:

Inner West Draft Strategy - Centres & Corridors

Actions: B.1 Establish a Typology of Centres.

The current Government has identified that the area is constrained by Victoria Road and consistent with the established role of centres in Sydney, the site is identified within a local centre setting as a small village only.

Action B4: Concentrate activities near public transport

B4.2 Support Centres with Transport Infrastructure and services.

*Accessibility by public transport is a key consideration in assessing the suitability of corridors and centres for intensification and specialisation.*

*Supporting centres with transport infrastructure and services is essential in achieving various State Plan Priorities, particularly for increasing the share of peak hour journeys on a safe and reliable public transport system (State Plan Priority S6), and improving the efficiency of the road network (State Plan Priority E7).*

Under the *Draft Sub-Regional Strategy*, Victoria Road is identified as an Enterprise Corridor. However, Victoria Road is also identified as a transport corridor with high constraints under more recent Government Discussion Papers. The impact of the development on the already constrained road and public transport network means that it is not suitable for the proposed density and level of development.

Inner West Draft Strategy – Housing

Action C3: Renew Local Centres

C3.1 Renew Local Centres to improve economic viability and amenity

*The Inner West Subregion contains many local centres which are functioning well as walkable, liveable and viable places, such as Annandale, Ashfield, Majors Bay Road, Summer Hill, Balmain, Norton Street, Rozelle and Wareemba. Local governments will continue to manage these centres to maintain and improve their existing character.*

The proposal does not maintain or improve the existing character of Rozelle, given the unacceptable traffic and transport impacts, impacts on the established centres hierarchy and urban design impacts (refer to Leyshon Report – Appendix B, Arups report – Appendix C, and the DRP – See Section 6.4).

4.5 Sydney Over the Next 20 Years – A Discussion Paper

The purpose of the Discussion Paper is to provide feedback into the development of a new Metropolitan Strategy for Sydney. Consistent with higher order policy documents, the current Government identifies Rozelle as a local centre (refer to Figure 1). In support of Rozelle being maintained as a local centre is the fact that Victoria Road is identified as a transport corridor with high constraints (Figure 2). That is, the existing and planned infrastructure associated with the locality is not sufficient to support the evolution of the area to the status of a town centre, confirming Rozelle as a local walkable centre.

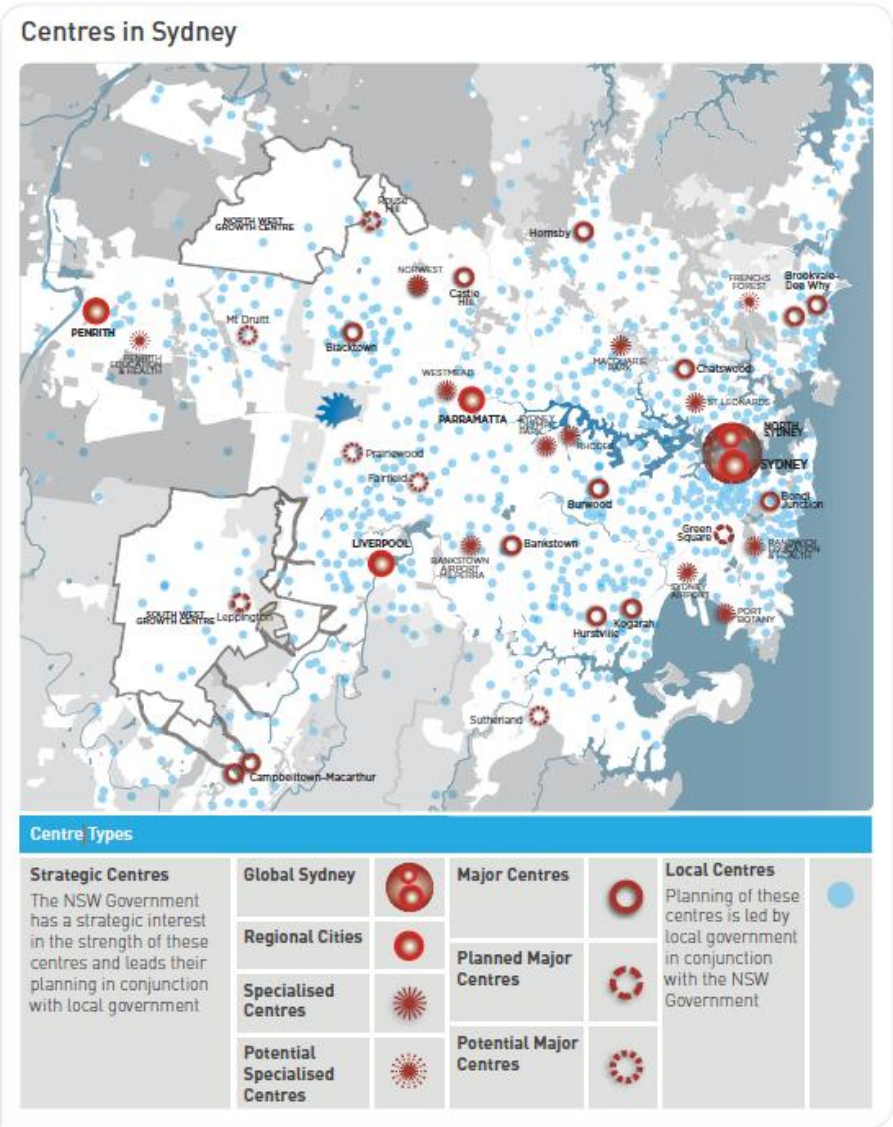
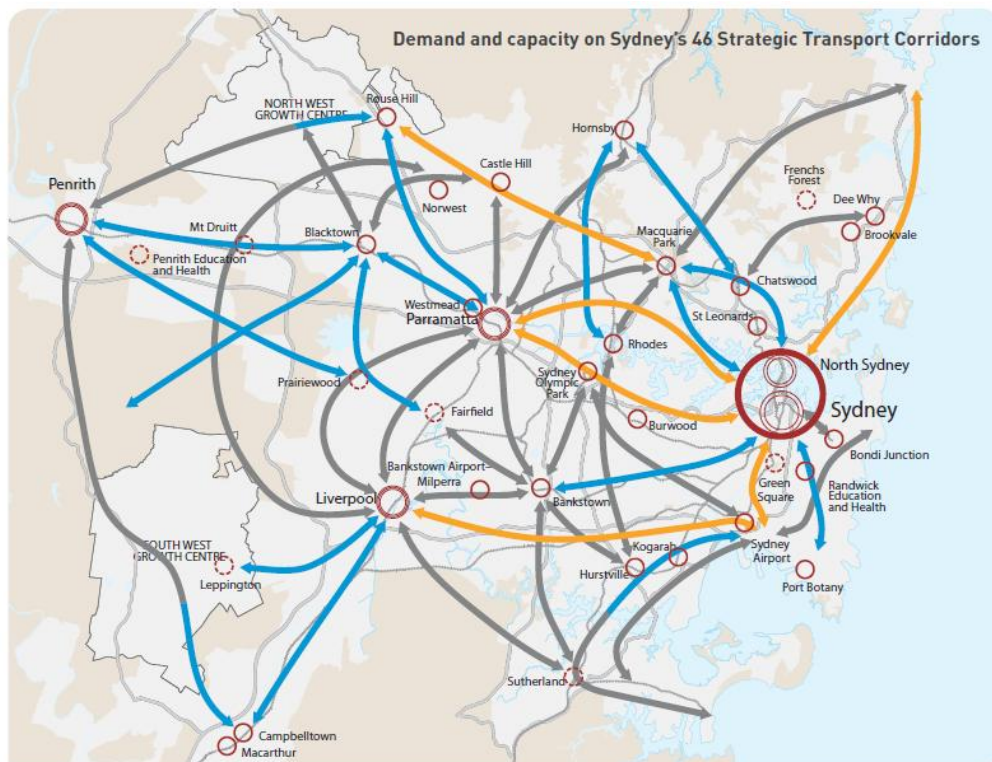


Figure 1: Shaping Sydney – Centre Types. Sydney Over the Next 20 Years – A Discussion Paper – which confirms Rozelle as a local walkable centre.





#### Transport Corridors

- Corridors with high constraints
- Corridors with medium constraints
- Other corridors

#### Urban Centres

- ⊗ Global Sydney
- Regional cities
- Existing major and specialised centres
- Proposed or planned major and specialised centres

----- CityRail Network

———— Major metropolitan roads

**Figure 2: Shaping Sydney – Demand and capacity on Sydney's 46 Strategic Transport Corridors. Sydney Over the Next 20 Years – A Discussion Paper, which confirms Victoria Road as a transport corridor with high constraints.**

## 4.6 Local Policy

The current and draft local controls for the site are consistent with the State, Metropolitan and Regional planning framework. The local controls reflect a small village outcome for the site. The Council appointed DRP has commented in relation to the current application that:

*This is a major application for a large consolidated site in Rozelle. The current Leichhardt Council DCP for this site includes clear guidelines in relation to public domain and importantly the creation of a connecting ground plane to Victoria Road, Darling Street and Waterloo Street. This open public space in the centre of the large consolidated block is also described in the DCP and the surrounding building envelopes are arranged to provide appropriate sun access to this space.*

*The current Development Application has not attempted to comply with the DCP height, massing or open space requirements.*

The Panel states that *the proposed building envelopes are considered excessive as they cause negative impacts to the public domain.*

Although the assessment and determination under Part 3A of the EP&A Act allows for a merit based approach rather than strict application of the development standards, significant weight should be applied to the development standards contained within the LEP.

In the circumstances of this project site specific planning controls and an amendment to the LEP were gazetted on 29 August 2008. The site specific development standards were developed as part of an intensive study on the impacts of development on the site on adjoining properties. In particular impacts of built form, context, traffic and retail hierarchy. The specific nature of the controls and the detailed consideration in the development of these standards reinforces their relevance to any future project.

The difference between the previous DA and those in the current proposal is provided at Appendix A. The comparison table at Appendix A clearly verifies that the current proposal significantly exceeds the height and density provisions of the previous proposal which was refused by the JRPP on 8 July 2010.

The previous non-compliance with the floor space and development standard had a direct impact on the traffic generation (resulting in increased impacts on the adjoining neighbourhood) and reduced amenity. It was for these reasons the previous development application was refused.

The current Part 3A proposal provides for a significant increase in both the commercial and residential components of the development. The Environmental Assessment does not sufficiently address the issues previously raised by the non-compliance. The additional density provided by the residential and commercial components of the development has no strategic justification.

As outlined in Section 2, Council resolved in June 2011 to backzone the site to B2 Local Centre and translate the current 1.5:1 FSR. This decision was made based on the many changes in the circumstances to the planning for the site compared to when the site specific controls were gazetted in 2008. Council is of the opinion that the Balmain Leagues Club Precinct should be backzoned until all the issues associated with the area in general and the site in particular are given due consideration to determine a new, appropriate set of controls for the site.

The statements in the Environmental Assessment that the project is consistent with the broader strategic objectives are erroneous. These same strategic objectives were a consideration at the time of gazettal of the LEP and the previous development application. At the time of the previous application the North-West Metro was proposed to align with the Victoria Road Corridor and a station was proposed adjacent the site. This public transport infrastructure provided a further justification for increased density and height on the site. While the City Centre Metro Reservation is still in place, the North-West Rail is no longer a current proposal.

The Environmental Assessment does not specifically demonstrate what aspects of the NSW State Plan and Metropolitan Plan or the Draft Inner West Sub Regional Strategy justify development of this intensity on this site. In this regard, Rozelle South is identified only as a “small village” under the draft Subregional Strategy. If the proposal was located in a larger centre or at a transport node then the form of density and development could potentially be considered acceptable.

#### **4.7 Conclusions**

Established Town Centres in the Inner West Subregion are identified as Ashfield, Balmain, Norton Street Leichhardt and Strathfield. A series of criteria for Town Centres is established in Appendix 4 of the *Metropolitan Plan*, including that Town Centres *are serviced by heavy rail and/ or strategic bus and local bus networks, and have some ferry services.*

Rozelle is constrained by Victoria Road, which is a heavily congested transport corridor. The proposal will only serve to congest the area further. Traffic congestion along Victoria Road and Darling Street is a major constraint on the redevelopment of the Balmain Leagues Club Precinct.

Rozelle is not identified in any strategic planning documents, from the State macro level policy documentation through to site specific local level planning documents, for uplift to a Town Centre status. Rozelle is not earmarked for a landmark outcome and as a result, is not underpinned by a strategic planning approach that would sustainably guide the growth of such a centre. Importantly, Rozelle is identified as a “small village” for which the local authority should maintain the decision making process.

The proposal does not establish a planning framework for the establishment of a new Town Centre which is environmentally, socially or economically sustainable.



# 5 The Director General's Requirements

## 5.1 Proponent's Response to the DGR's

On 15 February 2011, the then Minister for Planning declared the project to be a project to which Part 3A of the *EP& A Act* applies. The schedule to the declaration describes the proposed development, in accordance with the Major Project Application form submitted by the proponent as:

*A mixed use development of the land generally known as the Balmain Leagues Club Precinct at No's 138, 154 – 156, 168 and 170 Victoria Road; Nos 697 and 699 darling Street and Nos 1, 3, 5, 7, 9, 13 and 15 Waterloo Street, Rozelle.*

The lodged Environmental Assessment comprises that land identified in the project declaration. However, additional parcels of land, which did not form part of the original project declaration have now been included into the development site, being 172 Victoria Road and 17 – 19 Waterloo Street. It is noted that owner's consent is required in relation to the additional parcels of land.

Clause 75E of the *EP& A Act* outlines the application requirements for a Part 3A Major Project proposal as outlined below:

### **75E Application for approval of project**

- 1) *The proponent may apply for the approval of the Minister under this Part to carry out a project.*
- 2) *The application is to:*
  - a) *describe the project, and*
  - b) *contain any other matter required by the Director-General.*
- 3) *The application is to be lodged with the Director-General.*
- 4) *An application may relate to part only of a project.*

The proponent's application to the Minister, dated 19 January 2011, was misleading. The Preliminary Environmental Assessment Report prepared by the proponent and lodged with the application for approval, described the proposal [as required under Clause 75E (2)(a)] as:

*The proposed development is targeted to address the opportunity in such a fashion as to make Rozelle Village the most sustainable place to be. The built form comprises two 16-storey residential towers to a height of RL 102m over a whole of site podium that varies from 2 to 5 storeys. The podium provides considerable public space on several levels including green spaces predominately achieved by activating roof space.*

The Director General's Requirements were likely to have been issued, in accordance with Section 75F of the *EP& A Act*, based on the project description

above. The proposal submitted in April 2012 is not substantially the same development as that declared as a Major Project under Part 3A on 15 February 2011. The subject site has been expanded and the proposal is described in the lodged Environmental Assessment as:

*Comprehensive redevelopment of the former Balmain Leagues Club site and adjoining lands involving demolition, site remediation, excavation of 8 basement levels, and construction of a 5/ 6 storey podium and 2 residential towers ranging in height from 25 to 32 storeys to accommodate a mix of residential, retail, community and leisure uses and associated car/ bicycle parking, plant equipment and service infrastructure.*

Table 3 below provides a comparison between the preliminary Environmental Assessment and the current Environmental Assessment.

**Table 3: Comparison between the development described in the Preliminary EA compared to the current application.**

|                            | <b>Preliminary Environmental Assessment</b>  | <b>Current Environmental Assessment</b> |
|----------------------------|--|---|
| <b>Site Area</b>           | 7762m <sup>2</sup>                           | 8190m <sup>2</sup>                      |
| <b>Height</b>              | RL102 & 19-21 Storeys                        | RL144.90 & 26-32 Storeys                |
| <b>Carparking</b>          | 900 - 1000                                   | 834<br>- 290 Residential<br>- 544 Other |
| <b>Residential Area</b>    | Potential Maximum GFA - 30,000m <sup>2</sup> | 32,329m <sup>2</sup>                    |
| <b>Number of dwellings</b> | 200+   | 304                                     |
| <b>Commercial</b>          | Potential Maximum GFA – 7500m <sup>2</sup>   | 4,867m <sup>2</sup>                     |
| <b>Retail</b>              | Potential Maximum GFA – 20,000m <sup>2</sup> | 13,971m <sup>2</sup>                    |
| <b>Club</b>                | Potential Maximum GFA – 3500m <sup>2</sup>   | 2,711m <sup>2</sup>                     |
| <b>Total GFA</b>           | 40 – 45000m <sup>2</sup>                     | 54,979m <sup>2</sup>                    |
| <b>FSR</b>                 | 6:1  | 6.7:1                                   |

The DGR's were likely to have been predicated on a development substantially reduced in size. The project was not accurately described in accordance with Clause 75 E of the *EP& A Act*.

In June 2011, the Government repealed Part 3A of the *EP& A Act*. Group 5 of Schedule 1 of the *Major Development SEPP* was subsequently repealed (including Clause 13 Residential, Commercial or Retail Projects). The effect of the repeal was that residential, commercial and retail projects with a capital investment value greater than \$100 million are no longer identified as a class of development to which Part 3A of the *EP& A Act* applies.

The current application is saved by the transitional arrangements under *Schedule 6A – Transitional Arrangements – Repeal of Part 3A of the EP& A Act* which provides that Part 3A of the *EP& A Act* continued to apply to projects for which the environmental assessment requirements were notified to the proponent on or before 8 April 2011. The DGRs relating to a substantially reduced application were issued on 5 April 2011.

It is noted that under the current arrangements, the proposal would be required to be lodged with Council for assessment, reported to the JRPP and subject to the requirements of the provisions of Part 4 of the *EP& A Act*.

## **5.2 DGR's Issue 1**

It is considered that the proponent has not adequately addressed the following key issue identified in the DGR's – Issue 1, dated 5 April 2011:

### **5.2.1 Relevant EPIs and Guidelines (contained in Appendix A of the DGRs).**

#### **The objects of the EP& A Act**

The proponent fails to justify the non-compliance with the objects of the *EP& A Act*, in particular Clause 5 (a)(i) and (ii) as outlined below:

#### ***Clause 5***

*The objects of this Act 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,*

The proposal does not constitute the proper management or development of the Balmain Leagues Club site. As outlined at Chapter 4, the proposal represents a significant uplift to the locality in terms of the typology of centres in the Inner West. Under the *Inner West Subregion – Draft Subregional Strategy (2008)*, Rozelle is characterised as a “small village”. There is no substantiated evidence from the proponent to support the uplifting of Rozelle from a ‘small village’ to a ‘town centre’.

The site is located on a constrained transport corridor (being Victoria Road) and as a result, the growth associated with the proposal could not be sustained by existing infrastructure. In addition, the economic impact of the proposed 30 – 40 specialty retail shops will have a detrimental impact on the existing strip shopping character of Rozelle (refer to Appendix B – Leyshon Consulting Report).

Given the transport constraints of the locality, Rozelle is not identified at a State policy level, metropolitan, subregional or local policy level as a site that can sustainably be elevated in the centres hierarchy to a town centre. As a result, the proposal is inconsistent with the planning framework which governs the ordered and sustainable development of the site and the NSW Government's centre's hierarchy.

In addition, a Social Impact Assessment for the *purposes of promoting the social and economic welfare of the community* has not been submitted with the application. In order to adequately address Clause 5 (a) (i) of the *EP&A Act*, it would be appropriate that the Environmental Assessment should address, in detail, the social impacts of the proposal and include an appropriate investigation of the potential impacts upon the ongoing provision of community services and functions of the Balmain Leagues Club.

The social consequences of 304 apartments, a large retail area, a licensed club – half the area of which appears to be set aside for gaming machines, and 8 levels of car parking and loading do not appear to have been adequately considered in this application. Council has concerns regarding the relationship of these elements to each other, and of even more consequence, the negative effects on the local area.

As a consequence, Council has undertaken assessment of the social impacts likely as a result of the proposed development. These impacts are outlined in Table 4 below:

**Table 4: Social Impact Issues**

| Potential Impact                 | Impact   |
|----------------------------------|--|
| <b>Increasing Housing Supply</b> | <p><i>The Planning Proposal would provide additional housing options within close proximity of Rozelle Village and Sydney CBD. This would create additional opportunities for residents to live in close proximity to their place of employment and / or education reducing the need to travel longer distances by private car to the benefit of the environment and the health and well-being of existing and future residents.</i></p> <p><i>The planning proposal would also assist Council to meet its housing targets set for the LGA by the State Government. Notwithstanding this, Leichhardt Council has identified that its dwelling approval rate already exceeds the annual target set by the State Government.</i></p> <p><i>A key challenge of the development relates to its location on Victoria Road – one of Sydney's most congested transport corridors. This location, along with the layout of the apartments (i.e. 'snorkel' bedrooms, thin entry corridors, deep balconies) has the potential to compromise the amenity of future residents by way of noise, sunlight and daylight and air quality disturbances.</i></p> |

| Potential Impact   | Impact  |
|--|---|
| <b>Re-Opening the Balmain Tigers Club</b>                  | <p><i>Whilst the reopening of the Club could have positive impacts to its members by way of social cohesion and entertainment, the lack of information concerning the layout, function and operation of the Club restricts the ability to make this assessment.</i></p> <p><i>A key issue relates to the current floorplans that indicate potentially half of the Club's floorspace could be allocated to gaming machines. This could reduce the Club's ability to provide a range of communal spaces for adult members of the community to congregate and socialise resulting in the new Club having a different / less community focused role than before and a greater emphasis on gaming.</i></p>   |
| <b>Impacts to Vulnerable Persons – Safety and Security</b> | <p><i>The Planning Proposal would result in the relocation of the Club back to the Centre thereby adding a major licensed premise with gaming rooms to a crime hotspot. Whilst the Rozelle community has a privileged demographic, it is understood that there are pockets of disadvantage (particularly within a 3-5km radius of the Subject Site). This has the potential to lead to a growth in alcohol and non-domestic assaults as well as problem gambling if not appropriately controlled and managed. These impacts will be most severely experienced by existing vulnerable members of the community including younger men and disadvantaged families.</i></p>   |
| <b>Access, Social Equity and Cohesion</b>                  | <p><i>Rozelle is identified as a 'village' by the Sydney Metropolitan Plan 2036 and a 'small village' under the draft Inner West Subregional Strategy. The Planning Proposal will result in a tall building that is visually in contrast to the existing Rozelle Centre and psychologically removed from the northern side of the Centre by Victoria Road. As a result of its indicative design and lack of detailed information, the Planning Proposal poorly shows how it could implement core guiding principles regarding social amenity, cohesion and connectivity for communities within and surrounding the Centre.</i></p> <p><i>It is therefore critical that a range of physical and less tangible measures are put in place to encourage community access, foster social cohesion and support social equity.</i></p> <p><i>The Planning Proposal has attempted to address this matter by including a podium and spaces such as the central courtyard and the Darling Lane pedestrian link to facilitate interaction between the uses on the Subject Site and the surrounding community. Despite this there are a number of missed opportunities including the creation of a larger communal space, the provision of a pedestrian bridge as well as less tangible opportunities such as events and destinations for children such as play areas. As such it is likely the development would be perceived by the community as private space rather than publically accessible space.</i></p> |

| Potential Impact                | Impact  |
|---------------------------------|---|
| <b>Access to Services</b>       | <p><i>The Planning Proposal will result in a notable increase in residents and visitors to the Subject Site that will create demand for a range of local services including child care, primary and secondary school facilities, aged care and disability services. Whilst Rozelle Town Centre provides a range of existing services and facilities to support these needs, many are at, or close to, capacity as they already accommodate the wider population. The Planning Proposal provides some means by which to address the needs of the future community including the provision of a Child Care Centre and community room. The location of the Child Care Centre may not however provide an acceptable service level as vehicle access will only be via Victoria Road.</i></p>   |
| <b>Generation of Employment</b> | <p><i>The Planning Proposal would directly generate over 1,700 job years (i.e. 1,700 jobs for one year) during the construction period and a further 2,400 indirect jobs across Australia.</i></p> <p><i>Upon operation over 500 jobs would be generated however they would not all be full time nor would they all represent a net increase in jobs in the area as some jobs would be transferred from competing uses in the locality.</i></p> <p><i>It is also likely the Planning Proposal would result in the closure of some competing businesses in the Rozelle Centre. An increase in vacancies and the loss of well established businesses could detrimentally impact the vitality of the Rozelle high street. There is also a likely social impact to the owners and employees of these businesses as a result of potential closures, the extent of which is difficult to quantify or assess at this stage.</i></p>  |
| <b>Provision of Open Space</b>  | <p><i>The quantum of communal open space to be provided on the Subject Site is insufficient to meet the passive and recreation needs of its residents. It is important to note the existing amount of open space in the LGA available to residents' falls well below standard rate of 2.83ha / 1000 persons commonly applied in NSW.</i></p> <p><i>Leichhardt Council's Recreation and Open Space Needs Study (2007) identifies that the average provision of open space across the whole of the Leichhardt LGA is 1.65 ha / 1,000 people and in Rozelle it is 1.68 ha / 1,000 people.</i></p> <p><i>Therefore the Planning Proposal would have an adverse cumulative impact to the amount of open space available.</i></p> <p><i>The current Planning Proposal does not however seek to mitigate the potential for health and wellbeing impacts by way of a contribution to offsite areas. Furthermore the Planning Proposal does not detail how the proposed open spaces have been designed to meet the needs of specific social groups creating a missed opportunity for social cohesion and potentially resulting in a development that does not provide an enjoyable space to visit.</i></p> |

| Potential Impact           | Impact   |
|----------------------------|--|
| <b>Residential Amenity</b> | <p><i>The amenity of the locality for existing residents adjoining the Subject Site (i.e. within Waterloo Street) is likely to be affected during the construction phases on account of increased noise and air pollution as well as construction related traffic.</i></p> <p><i>As described above, the layout of the proposed apartments and the location of the Subject Site has the potential to create apartments with a poor level of residential amenity by way of noise, ventilation, sunlight and daylight.</i></p> |

#### New South Wales State Plan 2021: A Plan to Make NSW Number One (NSW 2021)

The proposal does not address inconsistencies with Goal 7 – Reduce Travel Times or Goal 20 – Build Liveable Centres. The traffic modelling for the proponent is inadequate and does not address impact on local roads. The supporting Environmental Assessment for the development does not provide justification for the increase in residential accommodation at the site and the growth of the locality to major centre status in an area not adequately supported by public transport and located on a highly constrained road corridor. Refer to the Arup report at Appendix C.

#### Sydney Metropolitan Plan 2036 and the draft Inner West Subregional Strategy

As outlined in Chapter 5, the proposal is inconsistent with strategic planning framework for Sydney and the Inner West, without any justification. The constraints associated with Rozelle mean that the locality has consistently been identified as a ‘small village’. The site exhibits none of the qualities required to sustainably support a significant uplift of the locality to a major centre.

This is particularly evident given the retail study by Leyshon Consulting (Appendix B) and the traffic and transport response by Arup (Appendix C) and.

#### State Environmental Planning Policy No 65 Design Quality of Residential Flat Development

The Council’s Panel reviewed the DA in relation to SEPP 65. The Panel’s report concludes:

*The proposal appears to be an ill-conceived ambit claim which will have large and long lasting detrimental impacts on Rozelle. The Panel can find no positive outcomes for the residents and businesses within the local area that would arise due to this proposal.*

*The DCP and LEP provide for increased density, but in return a public benefit through improved public domain and public space was to be provided. The current proposal provides no public benefit in return for the substantial development that is provided on the site.*

*Further in this Panel's opinion, the presentation and drawings are inadequate, misleading and uncoordinated. Perspective views are distorted, the amount of natural light misrepresented, naming misleading (courtyards etc), shadows misleading (elevations required), long view photo montages make the building look transparent, site boundaries not shown on sections, rendered elevations unclear, Victoria Road street trees shown on sections but none on plans.*

*As detailed above, the Panel has significant concerns about the scheme's shortcomings, and cannot support the DA in its current form.*

There are no justifications for the proposal's inconsistencies with SEPP 65.

Leichhardt LEP 2000 (LLEP 2000) and Leichhardt Development Control Plan 2000 (LDCP 2000)

The proposal substantially departs from the controls of the LLEP 2000. Consistent with the *Metropolitan Plan* and *Inner West Subregional Strategy*, the local controls for the site acknowledge the constraints of the locality and identify the highest and best categorisation as smaller scale than the proposal, e.g. a small village.

The validity of the local controls were confirmed by the JRPP in their assessment of the previous application and in their meeting minutes of 8 July 2010 recommending that any future application would require complete compliance with the development standards of the LEP.

It is noted that the Council's draft LEP 2011 confirms the planning strategy to date, that the site is suitable for a smaller scale development, complementing the existing shopping strip, not reliant on a multi- storey residential tower. Details of Council's current strategy for the site are outlined at Section 2 of this submission.

The DRP report at Section 6.4, the attached Retail Report (Appendix B) and Traffic Report (Appendix C) and provide evidence that there is no justification for the extent of non-compliance with the local planning controls.

### **5.3 DGR's Issue 7 - Transport and Accessibility**

A major priority of the State Government is integrating transport and land use. The NSW State Plan aims to promote use of public transport and job growth in centres. The proposal to create a new Town Centre at the site is not supported by the existing constrained road network or public transport network. The additional traffic generated from the proposed development will result in a drop in the level of service along the already constrained Victoria Road transport corridor.

High density housing as proposed would be better located at unconstrained major transport nodes, such as railway stations providing direct access to the city and other employment regions within the Sydney Metropolitan Region.

Refer to Arup traffic report (Appendix C).



#### 5.4 DGR's Issue 8 - Obstacle Limitation Height

The proposal is not supported in its current form by Airservices Australia, Sydney Airport Corporation Limited or the Commonwealth Department of Transport and Infrastructure.

Airservices Australia has responded to the exhibition of the current proposal to the NSW Department of Planning and Infrastructure in their letter dated 9 May 2012. Airservices response to the application is as follows:

*At a maximum height limit of RL 144.90m the proposed Rozelle Village Development will penetrate Sydney Airport Prescribed Airspace and is deemed to be a Controlled Activity under Part 12 of the Airports Act 1996. The proposed development will, if erected, intrude into PANS-OPS airspace for Sydney Airport and cannot be approved under Section 9 of the Airports (Protection of Airspace) regulations 1996.*

Sydney Airports Corporation Limited has responded to the exhibition of the current proposal to the NSW Department of Planning and Infrastructure in their letter dated 11 May 2012 as follows:

*Given the need to ensure aviation safety, and as the proposed development would infringe Sydney Airport's protected airspace, the construction of a building to this height is not supported. Sydney Airport would similarly not support a proposal to amend the OLS and PANS-OPS surface to accommodate a building of this height.*

The Department of Infrastructure and Transport has responded to the current application in their letter dated 15 June 2012 as follows:

*The Australian Government Department of Infrastructure and Transport administers the Commonwealth Airports Act 1996 and the Airports (Protection of Airspace) Regulations 1996. This legislation establishes a framework for the protection of airspace at and around leased federal airports from obstacles to air navigation.*

*Australia has adopted international standards which define two sets of invisible surfaces above the ground around leased federal airports such as Sydney airport. The airspace above these surfaces forms the airport's prescribed airspace. These surfaces are the Obstacle Limitation Surfaces (OLS); and Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surfaces.*

*Airservices Australia has advised that, at a height of RL 144.9meters, the proposed development would intrude into the PANS-OPS airspace for Sydney Airport.*

*Regulation 14(5) of the Airports (Protection of Airspace) Regulations prohibits the approval of any long-term structure that would intrude into PANS-OPS airspace.*

## **5.5 DGR's Issue 9 – Heritage**

Council's Heritage Officer assessed the proposal and has provided the following provided comment:

*The podium and tower forms as proposed do not respect the established heritage urban forms and context at this intersection, and involves unnecessary demolition of character buildings. While a podium is normally designed to respect the human scale and locality and sense of place, as part of a larger development, this podium presents as a large mass from all street frontages, at the base of a tall tower, signalling an entry to it. It does not respect heights or articulation suitable to either Darling or Waterloo Streets.*

## **5.6 DGR's Issue 13 - Economic impact Assessment**

The proposed retail centre will accommodate new club facilities, including restaurants, a 3,315m<sup>2</sup> supermarket, three mini-major retailers providing around 2,930m<sup>2</sup> floor space and specialty retail and food court/ restaurant provision totalling approximately 3,800m<sup>2</sup>.

Council commissioned Leyshon Consulting to review the retail component of the proposal. Refer to Leyshon Consulting Report at (Appendix B). The conclusions of the Leyshon Report are not supportive of the scheme and confirm a number of fundamental problems should the development proceed.

Further consideration is provided in Section 6.3 of this report.

## **5.7 DGR Issue 16 - Contributions**

Council's staff reviewed the proposal and concluded that the proponent's response to the key issue of contributions to be inadequate. Refer to section 6.7 below.

## **5.8 DGR's Issue 14 - Ecologically Sustainable Development**

The Council appointed DRP commented that in terms of environmental design:

*The deep podium design lessens opportunities for passive energy and lighting systems. The SoHo apartments back on to the podium and have no opportunity for cross ventilation and many internal areas will require artificial lighting at all times of the day.*

*The apartments generally have issues of depth and lack of cross ventilation. Overshadowing may be an issue for the southern tower. These issues have been discussed under Built Form and Scale.*

# 6 Environmental Impact Assessment

## 6.1 Strategic Policy Framework

The proposed new centre is not located within an existing strategic centre or corridor nominated within the *Metropolitan Strategy* or other regional/subregional strategy. The Department of Planning and Infrastructure – *Draft Inner West Subregion - Subregional Strategy* does not identify this area as a potential town centre.

The proposal is located on a constrained transport corridor and as a result, does not achieve key criteria of a town centre under the *Metropolitan Strategy*. The proposal will serve to further congest the road network in the area.

The area has not been identified by Council's Strategic Planning documents as potential town centre. The proposal's retail component will have a detrimental economic impact on the Rozelle shopping strip.

The proposal is inconsistent with the LLEP 2000, Schedule 1 Additional uses and controls for certain land, Part 3, Amended controls on specific sites - Balmain Leagues Club Precinct Site as outlined in Table 5 below:

**Table 5: Leichhardt LEP 2000 – Balmain Leagues Club Precinct Objectives (since amended by Council Resolution 21 June 2011)**

| Objectives  | Comment on the project response   |
|---|---|
| a. the development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling, | <p>While the project incorporates a mix of commercial, retail and residential uses, it is not supported by sufficient public transport to justify the scale of the development. The surrounding road network is congested during peak periods and the efficiency of the local area would be severely compromised by the proposal.</p> <p>The Council appointed Design Review Panel are highly critical of the proposal and the lack of connectivity to the surrounding streets for pedestrians (refer to Design Review Panel Report at Section 6.4).</p> <p>A further concern is the inadequate access into the residential towers for pedestrian access. The proposed location of pedestrian access, adjacent to the loading dock and fronting Victoria Road, does not provide a quality design outcome.</p> |

| Objectives   | Comment on the project response   |
|--|---|
| b. the development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity,                       | <p>The design of the development, in particularly the 5 – 6 storey podium means the development turns it back on the existing Rozelle Commercial Centre. The Leyshon Consulting Retail report (Appendix B) concludes that the development will have a significant detrimental economic impact on Rozelle. The proposal has little in the way of active street frontages – refer to Council's DRP comments at Section – 6.4.</p> <p>The proposal fails in terms of residential amenity on a number of points – refer to Council's DRP comments.</p>  |
| c. the development is well designed with articulated height and massing providing a high quality transition to the existing streetscape,   | <p>The proposal's scale, height and massing has no relation to the surrounding development. The applicant has failed to establish any valid argument for proposing the high density outcomes, particularly in the form of a tower development, on this site. The proposal fails the SEPP 65 test for design excellence – refer to the Council's DRP comments in this regard at Section 6.4.</p>   |
| d. the traffic generated by the development does not have an unacceptable impact on pedestrian or motor vehicle traffic on Darling Street, Waterloo Street and Victoria Road, Rozelle, | <p>The traffic generated by the development will have an unacceptable impact on Victoria Road and Darling Street in addition to the local road network during peak periods. Refer to Arup's Traffic and Transport Assessment (Appendix C).</p>  |
| e. any residential development at street level has a frontage to Waterloo Street, Rozelle and, when viewed from the street, has the appearance of no more than three storeys.          | <p>The SOHO units have a maximum of 3 storeys. Regarding the frontage to Waterloo Street, Council's Heritage advice comments that:</p> <p><i>Overall the first layer of the podium is unsuccessful in its attempt to address the historic scale of the street. After a small depth, the podium steps up to a podium more suited to multi-storey building. This larger podium dominates, rather than mitigates successfully.</i></p> <p><i>In addition, the 'Soho' podium elements to Waterloo Street do not address or operate in the street in a traditional manner, and as such will not compliment existing street life or character in the street.</i></p> <p><i>The relationship of the remaining historic building further down Waterloo Street (near the laneway) is not clear. It is likely that the podium impacts unacceptably on these buildings due to scale in the first instance.</i></p> |

## 6.2 Sydney REP (Sydney Harbour Catchment) 2005

The proposed building on the site has such visual prominence means that this policy has significant weight. The policy reinforces the pursuit of quality planning outcomes for high profile development by increasing the emphasis on character and the reducing the visual prominence of developments when viewed from the foreshore and the harbour.

In Clause 25, the matters to be taken into consideration in relation to the ***maintenance, protection and enhancement of the scenic quality of foreshores and waterways*** are as follows:

- a. *the scale, form, design and siting of any building should be based on an analysis of:*
  - (i) *the land on which it is to be erected, and*
  - (ii) *the adjoining land, and*
  - (iii) *the likely future character of the locality,*
- b. *development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,*
- c. *the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.*

This higher order document sets a framework that is often repeated in subservient documents, such as Local Environmental Plans (LEP's). This is because of the fundamental planning outcomes that the SREP seeks, represent a quality approach to design solutions.

This approach is further reinforced by the principles relating to views and vistas in Clause 26 of the SREP which notes that the matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows:

- a. *development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- b. *development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,*
- c. *the cumulative impact of development on views should be minimised.*

The views and vistas, both to and from the harbour and foreshore, will be altered in fundamental manner if this development were to proceed. The various montages highlight the contrasting nature of the proposed development with the principles in this policy. In particular, the montage at page 16, which is a view across the foreshore, over Callan Park, demonstrates the complete dominance of the building.

The principle of protecting the balanced outcome of landscape setting versus built form outcomes espoused by the SEPP will be compromised by this development. The use of highly reflect material, which is in itself contrary to the policy, will

exacerbate this visual prominence, effectively undermining the future ability to constrain or reject such ill considered development proposals. The issue of reflectivity is also raised in regard to impacts on surrounding road networks and reflectivity into local properties.

### **6.3 Economic Assessment | Leyshon Consulting**

The extent and nature of the proposal raises significant concerns in the relationship between traffic and retailing as well as the potential impacts to other local villages.

The concerns prompted Council to commission an assessment by Leyshon Consulting, experts in retail development analysis, to comment on the proposal. The conclusions are not supportive of the scheme and confirm a number of fundamental problems should the development proceed. In particular, the Leyshon report identifies that the proponent's retail assessment significantly underestimates turnover and as a consequence, the Proponent has significantly underestimated the impacts of the proposal on Rozelle's High Street retailers.

The report summarises (p 16) the issues as follows:

*Based on the EIA submitted on behalf of the applicant, as well as other matters reviewed in this Report, we conclude that:*

- *the EIA prepared by Urbis should not be relied upon in terms of identifying the likely economic impact of the proposal on local shopping centres;*
- *the annual sales projected for the centre—and upon which the EIA is predicated—appear to be too low having regard to the performance of similar centres in Leichhardt LGA and other comparable localities;*
- *the projected impacts on nearby local centres are too low having regard to a more realistic sales level for a centre such as that proposed;*
- *the distribution of impact identified by Urbis is questionable, most particularly the limited impact projected for the adjacent Darling Street, Rozelle strip compared with that projected for Darling Street, Balmain; and*
- *the impact of the proposed development on local strips will be particularly significant in 2016 given that 30 to 40 shops will be added to the local supply. Anecdotal evidence points to local traders already struggling in the current poor retail trading conditions.*

*In summary, if the retail component of the proposed development trades as poorly as is predicted in the Urbis EIA, it throws into question whether the development is indeed appropriate for local market conditions and the specific factors which apply to this particular site.*

## **6.4 SEPP 65 - Urban Design and Architectural Assessment**

### **6.4.1 Council's Design Review Panel Assessment**

The Council appointed a Design Review Panel to assess the scheme. The Panel has produced the following assessment and conclusions.

*This DRP report provides an architectural / urban design assessment of the current Part 3A Application proposal for the above project. The Panel also assessed the previous Development Application for this site.*

*The Design Review Panel members, Kerry Clare, Peter Smith and, Philip Thalís are appointed by Leichhardt Council to provide independent advice on this important development proposal. The Panel members' written and verbal comments are their professional opinions, based on their experience.*

*The Panel has also reviewed the Part 3A Application in relation to SEPP 65, which includes ten Design Quality Principles and the requirements for a Qualified Designer (a Registered Architect) to provide Design Verification Statements throughout the design, documentation and construction phases of the project. The Residential Flat Design Code published by Planning NSW (September 2002) is also relevant to this review.*

*The Panel recognises that the consultants involved in preparing the Part 3A Application are well respected. The Panel considers that the shortcomings of this proposal may arise from the requirements of the developer's project brief and the short time frame to design and prepare such a large and complex application.*

### **The Ten Principles of Design Assessment**

#### **1 Public Domain Interface / Context**

*This is a major application for a large consolidated site in Rozelle (the site has been expanded to the north since this Panel's consideration of the previous Development Application). The current Leichhardt Council DCP for this site includes clear guidelines in relation to public domain and importantly the creation of a connecting ground plane to Victoria Road, Darling Street and Waterloo Street. The envisaged open public space in the centre of the large consolidated block is described in the DCP and the surrounding building envelopes are arranged to provide definition and appropriate sun access to this space.*

*The current Part 3A Application has not attempted to comply with the DCP massing, height, floor space or open space requirements. Accordingly the proposed building envelopes are considered excessive as they cause the following negative impacts to the public domain:*

#### **Victoria Road**

*Negative impacts include the large expanse of driveways on the Victoria Road frontage comprising a slip-lane and several truck and car driveway entry and*

*exits. The slip-lane takes up much of the existing public footpath reserve in front of the site.*

*The poor building street front condition is compounded by the width of blank back-of-house and fire egress areas, lack of street trees, small recessed residential entry, upper levels built over the footpath, columns within the new footpath, areas of up to a 5 storey blank wall, overly screened windows above (inadequate street interface), and fixed glass with no sunshades (most probably requiring reflective glass which will reduce transparency). The proposed building colours and materials are considered bland. There lacks good street activation due to no level access to the major retail areas, instead there is subterranean retail accessed via long ramps or travelators.*

*The driveway portal to Victoria Road is too large and should be reduced and the quality of finish, materials, lighting, etc are poor and would need to be carefully designed to reduce the impact of the opening.*

*The transition to the northern neighbour has not been well considered. The bulk of the podium building has no connection with the existing character of the street and would set an undesirable precedence for the future character of the street.*

*The dedication to Council of a 3m footpath width is considered a minimum and preferably this is clear of bus shelters and the like. The Panel strongly advises that the footpath be dedicated in perpetuity to Council and that the basement levels (at all levels) are set back to the same alignment. This change would involve the reduction of all basements, redesign of the ramps and escapes, and a loss of some car parking.*

*The dedication to Council should extend for the full frontage to this important Sydney main road. This would allow the long-term resolution of services and to allow continuous deep soil for the trees. It would avoid obvious ongoing maintenance and liability issues such as failure / replacement of waterproof membranes that would disrupt the public footpath and lead to the loss of street trees. The dedication would extend to future development sites on either side of this site.*

### Waterloo Street

*Negative impacts include a lack of treatment or enclosure of the substation, SoHo street fronts not stepped with the fall of the street to retain direct connection and activity, bland architecture, a large level change to the interior of the podium reducing visual permeability and ease of connection, a large number of stairs and lengths of ramps, upper SoHos having no easy access from the street, and areas of unprotected glazing (therefore reflective with reduced transparency). Access to the front doors of some of the SoHo apartments is from a long narrow corridor, that has a character akin to a fire escape.*



### Darling Street

*Negative impacts include bland architecture, large areas of fixed glass louvres, the proposed two storey arcade is compromised by ramp ways and bridged areas and does not benefit from toplighting due to the netted tennis court above. Overshadowing of the south side of Darling Street by the proposed towers is evident, which will noticeably reduce the amenity of the north facing shops in this significant local strip-retail area.*

*The benefits of a major retail space to provide an anchor to this part of Darling Street are noted. Retail use on this site including a larger retail tenancy could be undertaken successfully and integrate well with the main shop strip. Other successful examples in the LGA include Norton Plaza where large format retail is located at the same level as the main strip complimented by a small array of specialty shops that connect to the main retail street. The current proposal does not successfully integrate retail with the existing Darling Street retail. The large supermarkets / retail spaces are located on two separate below ground levels. Upper level retail and commercial spaces are focused on an internalized 'centre court'. The DCP and the previous DA provided the central courtyard as public domain, open to the sky. It is now a food court. The proposal provides for an isolated retail experience, separate from the Darling Street retail experience. The connection back to Darling Street is lost, Darling Laneway could provide this connection however the design does not encourage this.*

### Darling Laneway

*The current design of the podium and towers will completely dominate and overshadow the lane. The level of new retail does not reflect existing lane levels and instead splits from the ground plane reducing the potential for direct activity on the lane. It is not clear if the existing lane connects to the new arcade.*

*The new through site link to the north of the lane is only one storey high and is entirely built over. It presents as a mean undercroft space, which is highly undesirable. The through site connection to the arcade and Waterloo Street should be open to the sky and clearly public in nature and preferably dedicated to Council. Trees planted in deep soil should be introduced. The design should eliminate furtive spaces and increase passive surveillance.*

*Evidence of retail viability should be provided, as the potential retail frontages could easily be configured as closed backs of shops.*

### Open Space

*This proposal constitutes a huge reduction in area from DCP ground level public space, significantly reduces natural permeability, and creates 'courtyards' under buildings. These are not courtyards but atria that serve as retail circulation, spaces which are overshadowed, subterranean, incoherent, lacking clear connection or natural light, and with an unacceptable lack of visible through-site links for this large street block. The proposed food court is internalised, there*

*are no clear views to sky or pedestrian areas, and a general loss of connection to landscape (4 trees shown in 'centre court' are under the tower building).*

## **2 & 3 Built Form and Scale**

*The building mass and bulk is considered entirely inappropriate due to the great number of negative impacts imposed on the surrounding area. The overshadowing is excessive and will considerably reduce amenity to the neighbouring properties and public space.*

*The deep podium building creates an internalised retail area which does not make any positive contribution to the surrounding streets at street or upper levels. The proximity of the monolithic podium to neighbours is overbearing.*

*The bistro terrace on the north has the potential to over view private outdoor space and create unreasonable noise impacts. It appears that existing dwellings will require underpinning.*

*The podium is designed with complete indifference to the context and topography. This results in a building that presents a bulk and scale that is overly dominant and out of scale with every other development on the Balmain and Rozelle peninsula. In contrast to the previous application where the development had a built form that at least in part respected the small scale of the surrounding development and stepped with the topography. This is of particular concern at the Waterloo Street frontage.*

*The elevations depicted in the drawings (PA201-PA206) do not even indicate the ground level.*

*The residential towers are too close together. Under the RFDC, buildings of this height should have 24 metres building separation, however only approximately 12 metres is proposed here. Further, the southern tower is too close to its boundary (5 - 8 metres), which sends almost all its shadow over adjoining properties, rather than on its own site. Applying the SEPP 65 separation distances equitably, the tower would be at least 12 metres from every boundary, if not substantially further.*

*The residential tower footprints are excessive. The south tower is particularly oversized in its footprint. The large enclosed lobby and bridges alternating every second floor is an unrealistic use of floorspace and increases the bulk and overshadowing. The huge glazed walls to lobbies show no believable structure and there appears to be no benefit to the apartments with regard to cross ventilation opportunities from the central lobby.*

*Any proposal for extra height in this area would require excellence in all aspects of the design and good public benefits. This proposal has not achieved either.*

*The amount of shadowing of the southern tower by the northern tower should be shown in elevational studies.*

*The residential car park on basement levels 7 and 8 is considered a very low amenity for residents due to travel distance.*

*The Panel considers that the new infill retail buildings to Darling Street need to demonstrate design excellence and make a significant contribution to the existing streetscapes. The Panel recommends that the retail and commercial components at the southern end of Waterloo Street and through to the Darling Street infill building be subject to a separate commission awarded for design excellence and environmental performance. The tennis court located on this building is inappropriate and completely out of context in the Darling St streetscape.*

*The basements design has several problems and should align to the new boundaries along Victoria Road without any encroachment under the 3m setback and dedication. The basements should be set back 1m from the boundaries along Waterloo Street to create viable deep soil areas.*

*As a general rule, residential lift areas in the basement car parking should be provided with good quality design, flooring, ceilings and lighting. Car park ventilation shafts and vents and grilles need to be clearly shown throughout. Administration areas have not been indicated on the plans however subterranean work spaces with no access to natural light are unacceptable.*

*The basements need to be reduced to comply with the above.*

#### **4 Density**

*The Panel is informed that the FSR's of this and the previous proposals are as follows;*

- The DCP stipulated an FSR of 3.9:1*
- The previous Development Application, which was refused inter alia for overdevelopment, had an FSR of 4.49:1.*
- On the applicant's calculation (based on the new standard LEP FSR definition – not yet in place in Leichhardt) the FSR is 6.70:1.*
- If the Leichhardt LEP definition of FSR is applied, the FSR climbs to 7.15:1*

*In this Panel's review of the Part 3A Application documents, there is no clear or compelling merit argument that would justify such an inequitable, windfall FSR.*

#### **5 Environmental Design**

*The deep podium design lessens opportunities for passive energy and lighting systems. The SoHo apartments back on to the podium and have no opportunity for cross ventilation and many internal areas will require artificial lighting at all times of the day.*

*The apartments generally have issues of depth and lack of cross ventilation. Overshadowing may be an issue for the southern tower. These issues have been discussed under Built Form and Scale.*

### Sustainability

*An ESD report forms part of the proposed Part 3A Application. This report confirms that the development conforms with the BASIX requirements. An energy score of 44 is assisted by an 100kWp. A water score of 69 is assisted by a waste water treatment system.*

*The installation of the large photovoltaic array is commended. However it is noted that the panels would only generate energy in the morning as they are shaded by the residential towers during the afternoon. (The claimed energy output may be lower than expected)*

*A more holistic sustainability target is referenced with a vague commitment to a 5 star Green Star rating. However at this stage the details of the commitment and what measures will be carried out are unclear.*

*BIO walls are noted on the plan and within the sustainability report. They claim to assist in the purification of the air. However it is unclear as to the actual contribution and how they would work given their nominated location in the building.*

### Cross Ventilation

*The diagrams on the plans indicate that the single sided apartments obtain cross ventilation (Section 13 SEPP 65/RFDC Compliance). This is an inaccurate representation. The Architectural Design Report claims 70% cross ventilation. This Panel believes this calculation is incorrect. In the Panel's assessment, the proposal appears to only have 32% of apartments that are cross-ventilated between external facades. Tellingly, by the proponent's own analysis even several corner apartments do not achieve cross ventilation. This is an extremely poor result for a tower building that is not constrained by orientation or neighbouring buildings. Many other buildings of similar scale throughout Sydney are able to obtain well over 75% cross ventilation.*

*Due to the proximity of the towers, the end walls are blank. This provides no benefit to the interior spaces, quite the reverse as the end apartments do not benefit from light, air or outlook from their end wall.*

### Solar Access and Shading

*The majority of apartments in the current proposal have an eastern or western orientation. On a large site with freestanding towers, only 3 out of 15 units on the typical levels benefit from northern orientation.*

*The western façade has very minimal shading. Projecting ledges are proposed at every second floor. The width of these appears to be only about 0.5m wide. These would be irrelevant in providing shade from the afternoon sun in summer. Unshaded reflective glass curtain wall systems are considered inappropriate due to the added need to air-condition every apartment. Reflective glass also reduces the ability for occupants to see out at night as the surface becomes mirror-like to the interior.*

*The amount of direct sun to the apartments' facades does have several poor effects on the neighbouring area. Firstly the shadows cast are enormous, spreading across many blocks during winter. Secondly the reflections and glare that would bounce off these facades would also create disturbing effects across the area, including providing a mirror to the sun to motorists on Victoria Road and other streets.*

*The 'PV Energy farm' proposal is commended, however the location and orientation of the array suggests that it will only operate at peak performance for 2 hours a day, as the array will be in shade every day of the year after 1:00PM. An alternative location should be provided, or the building design amended, to increase the solar access to the array.*

#### *Daylighting*

*In a project with 304 units, almost all kitchens, bathrooms, en suites, laundries and entries are internalized and therefore reliant on artificial lighting and mechanical ventilation. In addition there are a number of unit plans that have buried or internalized bedrooms (either reliant on the living room for light and air, or else unsatisfactory "snorkel" arrangements) and linear dressing rooms. Due to poor planning, there a number of bedrooms located at the back of 4-5 metre deep balconies – these bedrooms also receive almost no sunlight, excepting at sunrise. Many of the apartments have kitchens buried in the plan and at a distance that exceeds the 8m 'rule of thumb' in the RFDC.*

*Top floor internal bathrooms and corridors should be provided with ventilating skylights.*

*Ceiling fans should be provided in all bedrooms and clearly shown on the plans. Ceiling fans greatly reduce the need for air conditioning and reduce the amount of energy required for cooling.*

#### *Acoustics*

*Acoustic issues relating to noise from Victoria Road and aircraft noise from above should be resolved in a manner that allows passive ventilation whilst achieving noise and temperature comfort levels in the residential apartments.*

*The Panel has concerns that residential amenity will be compromised by heat gain and noise problems.*

## **6 Landscape**

*Generally the landscape provisions are not adequate for the increased population that is proposed. The substitution of the central public open space as required by the DCP by one extremely small light court (approximately 9m x 3m) is entirely unacceptable.*

*The inclusion of only a few trees, which are placed below buildings, is questionable. Street trees to all street frontages and lanes should be included.*

*No design details are provided in the landscape plan on the 'Bio Walls', which feature consistently but with no clear benefit in the double height foyers throughout.*

*The two areas of communal gardens indicated on PA119 appear to have overshadowing problems for significant periods of the day, which would restrict their viability.*

## **7 Amenity**

*The current proposal represents an exceptionally poor level of amenity for a development which by all respects is relatively unconstrained. The poor amenity is a result of poor internal planning and inconsiderate site planning.*

*In addition to the poor environmental aspects highlighted above, poor internal planning arrangements include:*

- *a substantial quantity of single orientation apartments*
- *too many apartments exposed to western sun in summer*
- *a high number of long thin entry corridors*
- *almost all kitchens, bathrooms, en suites, laundries and entries internalised*
- *overly deep balconies (many too deep and will exacerbate internal light levels),*
- *internalised and snorkel bedrooms with particularly poor access to windows and ventilation*
- *poor location and address of residential entries – in particular the entry to Building B2 that is adjacent the car and truck entry on Victoria Road*
- *extremely poor entries to the SoHo apartments,*
- *poor access to residential car parks*
- *lack of quality communal open space*

*The poor amenity would affect the majority of the future residents of the 304 units proposed. As such buildings tend to have a long life, the substandard amenity would be experienced by many residents every day for many decades*

*to come. This is an unacceptable outcome for such a major project, and clearly non-compliant in terms of SEPP 65 and RFDC principles and standards.*

## **8 Safety and Security**

*The Panel considers that there are a number of safety and security concerns in the public domain arising from the site planning and design of the built form:*

- the proposed footpaths to both Victoria Road and the through site link are in the form of undercrofts – consequently these miserable spaces lack surveillance from above*
- there are disproportionately few uses at street level to activate the street, as the internal levels are not well related to the sloping streets*
- the closed configuration of the podium negates contact and surveillance of the street – a particular concern where there is a major licensed club as part of the proposal*
- the residential entry to the northern tower is particularly poorly placed and configured next to the aggregated driveways. The current proposed location creates an undesirable relationship between pedestrians and vehicles.*
- the proposed upper community rooms seems very poorly conceived, with the only access by a single lift, and separate fire stair. A room of this scale should be able to be used as a Place of Public Entertainment (POPE), with an open stair in a connecting foyer associated with the lift*

## **9 Social Issues**

*The social consequences of 304 apartments, a large retail area, a licensed club and 8 levels of car parking and loading do not appear to have been adequately considered in this application. The Panel has concerns regarding the relationship of these elements to each other, and of even more consequence, the negative effects on the local area.*

*Given the affordability problems across Sydney and in the increasingly affluent inner suburbs in particular, there was also a potential to provide affordable housing as part of such a proposal. In areas such as Ultimo, Pyrmont, Glebe and Green Square, and in the Concord and Waverley LGA's, affordable housing is being delivered as part of uplifts in density. Given the huge residential yield and uplift proposed here, it would be reasonable for a percentage of dwellings to be provided to a community housing provider to guarantee some affordable housing.*

## **10 Aesthetics**

*The shortcomings of the aesthetics of the podium and its relationship with the surrounding buildings and streets have been discussed. The proposed curtain wall system for the residential tower is considered inappropriate as its appearance is unrelated to the residential nature of the building or to the present*

*character of Rozelle. It is also considered an inappropriate precedent for the future character of the area. The design lacks finesse or relationship to the uses within the building and reduces the building to blandness whilst adding to the apparent bulk and scalelessness. There needs to be a more varied architectural response in relation to how the building is occupied and the requirements for sunshading and cross ventilation.*

*The Panel understands that relocation of the communications towers will be required and their position and size should be indicated on the elevations and 3D views.*

### **CONCLUSION**

*The proposal appears to be an ill-conceived ambit claim which will have large and long lasting detrimental impacts on Rozelle. The Panel can find no positive outcomes for the residents and businesses within the local area that would arise due to this proposal.*

*The current proposal provides no public benefits in return for the substantial development that is provided on the site. The previous application provided public benefits in terms of public domain and public space.*

*The Panel is also concerned that the environmental design and apartment amenity are unacceptably poor, a failing exacerbated by the scale of the proposal.*

*Further, the Panel notes that the drawings are inadequate, misleading and uncoordinated. The perspective views are distorted, the amount of natural light misrepresented, naming misleading (courtyards etc), shadows misleading (elevations required), long view photo montages with 'transparent' building, site boundaries not shown on sections, rendered elevations unclear, Victoria Road street trees shown on sections but none on plans.*

*As detailed above, the Panel has significant concerns about the scheme's shortcomings, and cannot support the Part 3A Application in its current form.*

#### **6.4.2 A Review of the Proponent's Design Review Panel Report**

The Department of Planning requested a DRP review of the proposal and nominated a list of participants. The brief from the proponent to the DRP was very specific and the Panel was instructed not to discuss broader issues such as why a tower, or why the floor space, yet these are fundamental criteria in determining the suitability of a development in the context of the surrounding area.

The Panel were severely restricted in their ability to comment and were not able to undertake a comprehensive peer review. They also provided a number of "caveats" to their advice which have not been further assessed by the panel as to



the scheme's ability to achieve these outcomes. The Council's DRP suggest that these caveats have not been met and reflect poor design outcomes. The Council's DRP review of the proponent's DRP report is provided below.

## **1. Background**

*From the documentation submitted in the Application (Part 18 in Volume 3 of the Documentation), this Panel understands that the applicant constituted an Architectural Design Review Panel (ADRP) to advise on the development proposal. This Panel understands that the Department of Planning and Infrastructure requested an Architectural Design Review Panel review of the proposal and nominated a list of participants (Peer Review Terms of Reference included in the Report's Attachment A, but not included in the Part 3A Application documentation). This Panel acknowledges the distinguished membership to the Architectural Design Review Panel, comprising Professors Ken Maher and Alec Tzannes, Assistant Government Architect Helen Lochhead and Tony Caro.*

*Paragraph 1.2 in the Applicant's Architectural Design Review Panel's Report sets out the review process that was undertaken, which "examined urban analysis and preliminary design documents prepared by the Proponents architects Stanisic Associates over a six week period and included four separate two hour presentation and discussion sessions..."*

*The Applicant's Architectural Design Review Panel reported that the process was carried out over this compressed period spanning Christmas / New Year, with three options presented on the 12 December 2011 and the preferred option presented at the 03 February 2012 meeting. The Part 3A Application drawings indicate that the Project application issue date was the 10 February 2012, which is also the date of the architect's submitted SEPP 65 Design Verification Statement. The Applicant's Architectural Design Review Panel's Report was signed off by all the authors on the 20 February 2012, and their conclusion states that "the ADRP offers qualifies (sic) support to the proposed architectural design direction for a building of this development capacity on the site, subject to further consideration and resolution of the issues identified during the assessment process and in this report" (underlining added). Given the date of the Applicant's Architectural Design Review Panel's report after the finalisation of the Part 3A Application documentation, clearly no such "further consideration and resolution" were undertaken. Therefore the qualified support offered must be questioned.*

## **2. Applicant's Architectural Design Review Panel's Stated Development Parameters**

*Section 2 of the Applicant's Architectural Design Review Panel's Report sets out their understanding of the planning parameters, which were not challenged as part of their review; namely:*

- 55 000m<sup>2</sup> of GFA, equivalent to an FSR of 6.7:1

- a split of 30 000m<sup>2</sup> for residential, and 25 000m<sup>2</sup> for commercial including the Leagues Club
- compliance with the Obstacle Height Limit (OHL) set at AHD 145 metres, equivalent to an overall height of 30 storeys

In Paragraph 1.6 of their report, the Applicant's Architectural Design Review Panel states that their "comments are therefore based on how to optimise design quality and limit adverse impacts of a development of this site (sic) capacity. The Applicant's Architectural Design Review Panel was not asked to comment on options comprised of higher or lower development capacity".

The Applicant's Architectural Design Review Panel report gives no indication that it was aware of or considered the site's planning history, such as the site specific DCP, this Design Review Panel's report on the previous DA, or the JRPP's determination of that DA.

Given the Applicant's Architectural Design Review Panel's statement in 1.6 (see above), its report did not disclose, assess or question these development parameters. It gave no indication of their basis or reasonableness, assess the impacts, or in any way endorse these quanta.

### **3. Applicant's Architectural Design Review Panel's Guiding Principles: Planning**

Under the planning issues to be assessed, the Applicant's Architectural Design Review Panel lists (3.1) "the likely planning impacts resulting from a significant increase in density on the site" and (3.2) SEPP 65 performance. In this Panel's assessment, the impacts on the surrounding area from such an unrelated scale of development are severe, and the SEPP 65 performance is deficient in a number of regards.

### **4. Applicant's Architectural Design Review Panel's Guiding Principles: Urban Design**

The Applicant's Architectural Design Review Panel listed ten urban design principles that needed to be considered, namely;

**Principle 1** Maintain not less than 3 hours/day of sunlight throughout the year to 50% of useable private open space adjacent to primary living areas for residential properties affected by the development

**comment** – three hours of sunlight is not available to the windows of the dwellings facing Waterloo Street.

**Principle 2** The built form is to minimise the additional overshadowing of the public domain

**comment** - this does not seem to have been satisfactorily achieved. The shadow impacts to Waterloo Street and Darling Street in particular are severe. Many streets

*and blocks further afield will also be significantly shadowed by the development, so the proposal cannot be said to satisfy the principle.*

*Principle 3     The lower scale built form (podium) is to be related in scale to the built form of the Rozelle neighbourhood*

***comment*** - the shadow diagrams clearly show the complete disjuncture in scale between this proposal and all nearby areas. The podium is made as a monolithic form, and is in itself higher than any building in the vicinity. While there is some articulation of the length of the podium facades, in their continuity and use of repetitive elements they introduce a much more dominating scale. While such an approach may have some validity in relation to the width and long vistas of Victoria Road, it is heavy and intrusive to both Waterloo and Darling Streets. The proposal therefore fails to meet this objective.

*Principle 4     The built form is to minimise the visual impact of the bulk*

***comment*** - this Panel is not aware of any methods that would effectively minimise a 25 and a 30 storey tower in such a location, either physically or visually. Their size are in plain view from all sides. When seen from their thin ends they can appear slender relative to their height (selectively illustrated in #17 - model photos), however when seen obliquely and from side on they will present a massive urban wall and major change to the skyline (not illustrated). The gap between the towers is inadequately narrow relative to their broad widths of facade. The proposal therefore fails to meet this objective.

*Principle 5     The ground plane is to directly connect residents and visitors to each of the streets and Victoria Road with ease, convenience and high levels of amenity*

***comment*** - the connections to the public domain are poor. To Victoria Road, there is a mean entrance, with stairs and ramp, located down the slope near the cavernous driveways. The footbridge over Victoria Road has been deleted. To Waterloo Street, there are three entrances, with a steep bank of stairs that would block sightlines into the site. The laneway behind Darling Street is not widened through dedication, nor seamlessly connected through to Waterloo Street. At grade connection is only provided from Darling Street. All these connections lead into a closed shopping centre, which has some large internal volumes. This internalised space however lacks clear connective structure between the public streets. The proposal therefore fails to meet this objective.

*Principle 6     The address of each residential building is to be distinctive and accessible from the closest public street*

***comment*** - there are two residential entries shown on the Part 3A Application plans. The smaller tower's street address is to Victoria Road, a double glass door set in a maze of driveways, fire escape doors and service cupboards. The residents must cross the substation hatch to access the door - if the substation is being serviced, they will need to use the major driveway to the truck dock, which is

*directly beside. The foyer is deep and internalised, with a side door from the truck dock. Options for additional access to the lift core from upper street levels do not appear to have been attempted.*

*The entry to the larger tower's foyer is off Waterloo Street, accessed by two sets of stairs as the lobby is approximately 2 metres above the footpath level. A triple scissor ramp is provided, however is it approximately 25 metres away from the lobby, without a clear line of sight. The position of letter boxes, identification signage, intercom and the like is not indicated for either foyer.*

*As an address for a significant number of residents and their visitors (304 units), the proposed residential addresses are wholly inadequate, with compromised identity, utility, amenity, safety and character. The proposal therefore fails to meet this objective.*

*Principle 7     A through site link available to the public 24/7 is to interconnect Victoria Road and Waterloo Street on approximately the same alignment as the existing through site link*

***comment*** - *the connections from the public domain are primarily into a closed shopping centre, which is organised as a destination rather than a passage (like an arcade). The improvements to the undedicated laneway behind Darling Street were extensively discussed with this Panel during the last application.*

*In this Part 3A Application, the existing extent is named as 'Darling Laneway', while the new extent is named as the 'through site way'. The 'through site way' is cluttered with bike racks, and is effectively a deep undercroft as the podium above extends over most of it. The open vista that could be created down 'Darling Laneway' is now closed by a lift shaft and lobby to the Darling Street building. The 'through site way' has stairs to Waterloo Street, which impede its reading as an open public way. While this through site link does functionally connect the streets, its amenity and character are compromised by its design, so that it feels like a residual zone rather than a new element of Rozelle's public domain. The proposal therefore fails to meet this objective.*

*Principle 8     Activated street frontages are to be maximised, including to the through site link referred to above*

***comment*** - *with the exception of Darling Street, the activation of the major street frontages is poor. To the sloping Waterloo Street frontage, the pedestrian is faced with either podium walls or tall flights of stairs. There is only one point of connection at-grade into the retail, and it is only approximately 3 metres wide. The so-called SoHo units are away from the footpath, accessed from galleries above but visible from the street.*

*The situation is worse to Victoria Road, where there are two mean entries set in expanses of solid wall combined with services, escapes and enormous driveways. The pedestrian interface on both of these streets is extremely poor.*

*Most of the retail frontages face into the shopping mall. While some frontage to the 'through site way' is indicated, it is not clear if there will be any doors, or whether this face will be treated as a 'back of house' for the shops.*

*Therefore the proposal fails to meet the Applicant's Architectural Design Review Panel's objective.*

*Principle 9 High impact vehicular access including loading docks and garbage service is to be from Victoria Road*

***comment*** - *the major vehicular access is connected to the existing intersection on Victoria Road. This has been made possible by the purchase of several additional properties to extend the site to the north. However there is still major vehicle access to Waterloo Street, which provides the sole access to two entire basement floors of residential parking. The impact of such a car parking quantum in a narrow street, with consequent turning movements at the intersections at each end, cannot but have a negative effect on the local area (see separate traffic assessment).*

*Principle 10 Use of high quality, long life materials*

***Comment*** – *the main volumes of the podium are predominantly precast concrete with an unspecified coloured topping layer. The secondary articulation elements are glass blades to Victoria Road and Darling Street, and glazing and aluminium louvres to Waterloo Street. The towers appear to be predominantly glass. These materials may be durable in themselves, however few detailed drawings have been provided to give confidence that they are “high quality, long life materials”.*

## **5. Applicant's Architectural Design Review Panel's Guiding Principles: Architecture**

### **5.1 environmental design initiatives**

***comment*** - *this Panel has assessed the environmental design aspirations and performance in its SEPP 65 assessment, and considers that the scheme falls short of the aspirations expected in the Applicant's Architectural Design Review Panel's report.*

### **5.2 design of the towers to be articulated to provide a distinctive and memorable architectural character**

***comment*** - *the towers are designed as large glazed forms, smooth and reflective rather than articulated. The taller tower comprises splayed wings, with a stepped top. Viewed from certain angles, they are likely to provide a distinctive silhouette. However from other viewpoints they will present as a bulky wall, as the length of the main tower facades varies between 44.830 and 48.715 metres. The north-east face of the smaller tower is also approximately 40 metres. These facades consist of balconies and glazing, on a repetitive module. Therefore, while the towers have an undeniable urban presence, they cannot be said to be "designed with high levels of*

*articulation". The proposal therefore does not appropriately meet this objective.*

- 5.3 *the podium is to ameliorate the effects of bulk and height of the development*

***comment*** - *this Panel considers that the podium has been purposefully designed as a monolithic deep-plan block, with articulation quite secondary to mass. The podium will present powerfully in the urban scene, but in this Panel's opinion could not be said to "ameliorate the effects of bulk and height of the development". The proposal therefore fails to meet this objective.*

- 5.4 *the podium is to take account of the bulk and scale of the adjoining buildings of value*

***comment*** - *the podium only attempts to relate to the distinguished Darling Street frontage, and even then the facade is broader and taller than its neighbours, though split by the double height arcade. The scale to both Victoria Road and Waterloo Street are without parallel in the vicinity, although it could be argued that the Victoria Road streetscape currently lacks appropriately-scaled buildings of any urban quality. The architect could with some justification argue that they are seeking to establish a new paradigm for this major urban artery. The same could not be said for the proposed monolithic presence to Waterloo Street. The proposal therefore fails to meet this objective.*

- 5.5 *use of high quality, long life materials*

***comment*** - *the main volumes of the podium are predominantly precast concrete with an unspecified coloured topping layer. The secondary articulation elements are glass blades to Victoria Road and Darling Street, and glazing and aluminium louvres to Waterloo Street. The towers appear to be predominantly glass. These materials may be durable in themselves, however few detailed drawings have been provided to give confidence that they are "high quality, long life materials".*

**6. *Applicant's Architectural Design Review Panel's Comments on the Preferred option presented on the 03 February 2012***

- 6.1 *analysis of environmental impacts on this part of Rozelle*

***comment*** - *the application does provide substantial documentation of the impacts on Rozelle, clearly indicating that the negative impacts will be significant and wide-ranging.*

- 6.2 *Urban Design*

- 6.2.1 *alignment of long axis of the towers to north*

**comment** - this has been done, although the lack of separation between the towers means that at many times of day their shadows will join to cast a larger combined shadow. This is clearly demonstrated by the shadow diagrams provided by the applicant.

- 6.2.2 the podium's relationship to this part of Rozelle, including issues around scale, fenestration, stair access and circulation

**comment** - this Panel considers that these issues have not been adequately addressed.

- 6.2.3 main access to the northern tower from Victoria Road is overly constrained by its small footprint and proximity to the proposed commercial vehicle slip lane.

**comment** - no design improvements appear to have been carried out in relation to this substantive concern, as this foyer would provide a spatially compromised and miserable homecoming experience.

- 6.2.4 primary access to the northern residential lobby from Waterloo Street via the southern tower's lobby is not considered to be acceptable in its current configuration

**comment** - the residential address to all 304 units remains substandard. It is not clear if any improvements have been attempted in response to the Applicant's Architectural Design Review Panel's comments, as their criticism remains valid.

- 6.2.5 details of the proposed through-site link

**comment** - the Applicant's Architectural Design Review Panel had insufficient information to assess this link's safety and character. This Panel is concerned that the 'through site way' is furtive, lacks activation and environmental amenity.

- 6.2.6 the pedestrian experience around the site and at the major vehicle crossings could be improved

**comment** - this does not appear to have been attempted. The pedestrian experience along Victoria Road would be aggressive and unrelieved, with effectively 6 lanes of entering and exiting traffic to traverse, a facade comprising substantially service uses and blank walls, a 'colonnade' that sweeps into a truck entry, and no street tree planting (unlike the earlier Development Application). In this Panel's opinion, the pedestrian experience would be worse than the substandard existing conditions.

Similarly the major driveway to Waterloo Street has poor sightlines and high traffic volumes. Small trees are proposed to be planted in the parking lane, however almost no other landscape treatment is proposed.

- 6.3 Architecture

6.3.1 *the design strategy to accommodate the FSR is accepted in principle on the assumption that the key negative environmental impacts are minimized*

**comment** - *in this Panel's assessment, this cannot be said to be the case. It is a surprising assumption for the Applicant's Architectural Design Review Panel to have made, the proponent's design team appear to have been given no time to respond, and as the Part 3A Application documentation shows the impacts are widespread.*

6.3.2 *the residential units meet acceptable standards of internal amenity*

**comment** - *in this Panel's assessment of the proposal's performance in relation to SEPP 65 principles, the project would require extensive redesign to meet SEPP 65 requirements.*

6.3.3 *the towers be designed to be more slender from all directions, and that their form and fenestration be reconsidered*

**comment** - *this does not appear to have been carried out. The south tower has 11 apartments on its typical levels, and both towers have large cores, wasteful voids and excessive circulation. The towers are of such a height and footprint that the Applicant's Architectural Design Review Panel's concerns could only be addressed by reducing the towers' footprints.*

## **7. Conclusion**

*The Applicant's Architectural Design Review Panel concluded by offering "qualified support to the proposed architectural design direction for a building of this development capacity on the site, subject to further consideration and resolution of issues identified during the assessment process and in this report."*

*This Panel questions how the Applicant's Architectural Design Review Panel could offer such qualified support, when it was given limited terms of reference and review parameters with regard to the proponent's development quanta, which restricted the consideration of the multiple and severe environmental impacts on Rozelle and beyond. On this Panel's assessment the development quanta are excessive and unjustified.*

*Further, given that the Applicant's Architectural Design Review Panel's final report was signed after the architect had signed off on the Part 3A Application drawings, there was no possibility that the substantive issues raised by the Applicant's Architectural Design Review Panel were in any way addressed.*

## **6.5 Traffic and Parking**

The extent and nature of the proposal raises significant concerns in the relationship between traffic and retailing as well as the potential impacts to other local villages.

The concerns prompted Council to commission an assessment by Arup to peer review the Traffic Assessment prepared by the proponent (see Appendix C –



ARUP Assessment). The conclusions are not supportive of the scheme and confirm a number of fundamental problems should the development proceed.

The report states:

*The existing street network around Rozelle is currently operating near capacity and occasionally approaches gridlock. Saturday morning is a particularly vulnerable time for the network as a result of numerous activities in the vicinity, including Rozelle and Orange Grove Markets.*

Vehicular access to the Rozelle Village Development concentrates retail and commercial vehicle movements to and from Victoria Road with only residential parking being accessed from Waterloo Street. Whilst this is consistent with the provisions of the DCP, the DCP envisaged a significantly smaller development and correspondingly lower traffic movements in Waterloo Street. The site access has been added as a third phase to the traffic signals so that Wellington Street and the site access run as separate phases. Time for the site egress phase has been taken from the Victoria Road phase reducing it by about 20% which is considered unacceptable by Roads and Maritime Services due to additional delay to bus services on Victoria Road.

The report goes on to say:

*The traffic modelling conducted by Arup indicated that the traffic likely to be generated by the Rozelle Village Development and including development in the Terry Street precinct would result in the overloading of Rozelle's street network on Saturday mornings.*

*The only means of accommodating the developments' traffic on the existing network would be to remove parking in Darling Street, Wellington Street and Victoria Road. There is also an existing southbound bus stop on Darling Street which would need to be relocated further south. Such measures are unacceptable to the local community. The removal of kerbside parking has the potential to destroy the existing fabric of the local neighbourhood and Darling Street as a whole.*

*Consequently, it is considered that the traffic associated with the developments will create unacceptable levels of delay on the street network, approaching or reaching gridlock on Saturday mornings. And, that the only measures which could result in an acceptable level of service on the street network will have potentially devastating impacts on local businesses and the local community.*

*Pedestrian conditions on the Victoria Road footpath will be compromised by the built form of the development and inclusion of a left turn lane for traffic entering the development.*

*The proposed car parking provision for the residential component of the development is in excess of the DCP allowance. The mix of non-residential uses has been provided with 544 car parking spaces which allows different uses to*

*utilise these at peak use times. As a result of this the analysis is considered to underestimate the potential traffic generation of the site in the afternoon peak and the Saturday midday peak.*

*The local street system in Rozelle and Balmain is already heavily utilised for access onto and off Victoria Road. The limitations on access to the site will result in additional traffic using the local street system. Additional traffic on Victoria Road will also reduce the capacity for side street access further increasing queue lengths and travel times on the local street system.*

*The Director-General's requirements for the site outlined a number of issues to be addressed in a Transport Management & Accessibility Plan (TMAP). Many of these issues have not been adequately addressed by the TMAP.*

*The analysis undertaken by Arup concludes that the scale of development proposed for Rozelle Village cannot be accommodated without significant impacts on the local business and residential communities.*

The concerns raised by the Council's DRP regarding reflectivity are also relevant to traffic in and around the subject site. This aspect of the development has not been given proper consideration by the applicant.

## **6.6 Relevant Authorities**

The Council is aware of responses from several government referral authorities which have significant consequences for the proposal. These responses have key impacts on the suitability of the application.

### **6.6.1 Air Services Australia and Sydney Airport Corporation**

The Sydney Airport Corporation and Air Services Australia will not support the proposal. There is also no approval from the Commonwealth Department of Infrastructure and Transport, whom have also advised that there will be no amendments to the PANS-OPS surface. In short, they will not approve the building in the current form.

Refer to Section 5.4 above.

### **6.6.2 Roads and Maritime Services (RMS)**

RMS has raised a number of concerns with the application to the extent that the application would require significant amendment. The RMS suggests that a revised Project Application will be required. Notwithstanding the technical issue of whether that is possible, the RMS are clear in that they do not support the scheme for a variety of technical reasons. These reasons overlap the concerns raised by Council's own independent assessment undertaken by ARUP's.

### 6.6.3 NSW Police Force

The Police have raised several concerns that would require amendments to the application. In particular, the shuttle bus and taxis rank proposed for the Wellington Street. Council concurs with the statements made by NSW Police in relation to the proposed Wellington Street taxi rank, i.e. that the proposed location of the taxi rank is wholly unacceptable and it should be internalized within the development.

## 6.7 Public Interest

### 6.7.1 Voluntary Planning Agreement (VPA)

The proponent appears to be relying on the previous VPA which was executed to integrate the previous development with the Local Centre and surrounding suburbs. It was this scheme, and the associated VPA, that was refused by the JRPP. The VPA attempted to offset any impacts by requiring a pedestrian link to Darling Street, a pedestrian bridge over Victoria Road, a community shuttle bus, a taxi drop off and collection point, a community car share scheme, a free delivery service, public domain upgrades and a community grant scheme.

The proponent of the new Part 3A project has given no consideration to the impact of the significantly increased development in terms of its impact on the community and scope for any net community benefit to be leveraged from the development.

Some background to the need for community offsets is provided below:

Pursuant to the previous zone, commercial and retail could yield an FSR of 1.0:1. A mixed use development could achieve a bonus FSR of up to 1.5:1. To achieve the 1.5:1 FSR, Council's parking controls would need to be satisfied as well as Council's s.94 Contributions Plan.

The previous DA was assessed in the context of the executed VPA.

The VPA included a package of additional requirements to address potential impacts:

- Pedestrian Bridge – to facilitate access from both sides of Victoria Road.
- Construction of a pedestrian link (i.e. the proposed retail arcade) from the Proposed Development to the Darling Street shop frontage as shown in the DCP.
- A community shuttle bus to be provided and operated by the Developer to carry passengers to and from the development.
- Provide a designated area, in an easily accessible place within the development, for taxis to pick up and drop off.
- The developer will facilitate the operation of a community car sharing scheme from the development, and will provide a minimum of two marked car spaces for the exclusive use of such scheme.
- 24hr home delivery service.
- Public domain improvements.

- A community grant scheme.

The current Part 3A application proposes:

- Increases to the FSR beyond the previous level (refused by the JRPP on 8 July 2010) and reduces the size of the Club with no guarantee that the Club will return.
- Increases the size of supermarket and provides for a significant increase in the number of specialty shops.
- Increases the parking rate.

However, the proposal does not include a VPA package to address the potential impacts of the expanded development. In this regard there is no:

- Pedestrian Bridge – to facilitate access from both sides of Victoria Road.
- Public Plaza.
- Home Delivery Service.
- Community car sharing scheme.
- Easily accessible taxi rank proposed.

Whilst the proposal should not be considered without a VPA, it is unlikely that any agreement could be reached that appropriately offsets the impacts to the community from a scheme of this size and nature.

## **6.8 Social Impact Assessment**

Despite the scale of the development - 304 apartments, a large retail area, a licensed club – half the area of which appears to be set aside for gaming machines, and 8 levels of car parking, the proponent has not provided a social impact assessment of the current application. Given the nature of the development, a detailed social impact assessment is a mandatory and reasonable requirement as part of any assessment process.

The Council has undertaken a Social Impact Assessment of the current application and a number of potential adverse impacts have been identified such as:

- Impacts to vulnerable members of the local community
- Impacts to residential amenity
- Impacts on Social cohesion
- Impacts to the vitality of the Rozelle High Street
- Impacts on the viability of competing local businesses.

These issues are also covered in Section 5.2.1 above.

The Council appointed DRP has stated that:

*Whilst the reopening of the Club could have positive impacts to its members by way of social cohesion and entertainment, the lack of information concerning the layout, function and operation of the Club restricts the ability to make this assessment.*

*A key issue relates to the current floorplans that indicate potentially half of the Club's floorspace could be allocated to gaming machines. This could reduce the Club's ability to provide a range of communal spaces for adult members of the community to congregate and socialise resulting in the new Club having a different / less community focused role than before and a greater emphasis on gaming.*

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## 7 Conclusion

The proposed redevelopment of the Balmain Leagues Club Precinct would result in a dramatic and unacceptable change to the urban form for the locality. What is currently a 'small village' in an already constrained environment, particularly from a traffic and transport perspective, will attempt to become a more significant centre adding to traffic and transport congestion.

The constraints are not only unacceptable in terms of the consequent amenity outcomes; they have the potential to significantly affect the viability of the "centre". The viability is a further significant concern given that the form of development is justified on this outcome. A potential situation arises where the community are left with an underperforming centre with low levels of amenity and the loss of the "village" atmosphere enjoyed at present.

The proposal will have adverse impacts on the visual quality in the locality when viewed from surrounding localities including Sydney Harbour. The justification for a landmark building is not adequate. In contrast, the planning framework and shortcomings of the development verify that a smaller scale development is the most suitable outcomes for the site.

While issues such as architectural merit may be able to be overcome by additional detailed study and design development, the proponent has not demonstrated that the proposal can be built without an adverse impact on the surrounding environment, particularly in terms of economic, traffic and social impacts. In essence, this is an overdevelopment of the site. The site simply cannot accommodate such an intensive form of development without adverse effects.

The proposed new centre is poorly located, lacks the support of public transport (buses in the area are at capacity in the morning peak) or the capacity to grow into the future. The proposal will have adverse traffic impacts felt by the wider community.

This submission demonstrates that:

- The proposal fails in terms of its urban design and architectural merit and would result in poor amenity for future residents and users of the retail area.
- The development would have significant impact on surrounding residential streets and the future trading of the existing retail shopping strip characteristic of Rozelle.
- The proposal will result in unacceptable impacts on the surrounding traffic network, including Victoria Road.
- The proposal provides no justification for putting aside the well considered planning outcomes that Rozelle should remain a "small village". In contrast, the provision of a larger centre cannot be supported under the current State and Regional strategies for the locality.

- The proposal is not supported in its current form by a number of key relevant authorities, including Airservices Australia and RMS.

The development of the site requires careful consideration as to how the combination of land uses will operate in harmony to deliver quality outcomes for the community and future occupants as mandated when Council agreed to rezone the site for redevelopment in 2008.

Notwithstanding the above, the locality has evolved since 2008. In recognition of this situation and the decision by the JRPP, Council has resolved to back zone the site to reflect the nature of the surrounding “High Street” centre. This will provide Council with the opportunity to undertake a fresh round of traffic, retail and social impact studies to determine an appropriate future zoning and suite of development controls.

Council seeks the support of the Department of Planning and Infrastructure and the Planning Assessment Commission in pursuing this line of action.