

APPENDIX A ENVIRONMENTAL ASSESSMENT (APRIL 2012)

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4499

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4499

APPENDIX C PROPOSER'S PREFERRED PROJECT REPORT / RESPONSE TO SUBMISSIONS (NOVEMBER 2012)

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4499

APPENDIX D PROPOSER'S REVISED PREFERRED PROJECT REPORT / RESPONSE TO SUBMISSIONS (JULY 2013)

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4499

**APPENDIX E PROPONENT'S ADDITIONAL INFORMATION
(DECEMBER 2013)**

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4499

APPENDIX F CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Ecologically Sustainable Development

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

- a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

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

- a) **Precautionary Principle** – The proposal is unlikely to result in any irreversible or serious environmental impacts that are yet to be well understood. With the exception of traffic and transport and built form impacts, the application is supported by technical and environmental reports, which conclude that the proposal's impacts can be successfully mitigated. No significant climate change risks are identified as a result of this proposal.
- b) **Inter-Generational Principle** – The location of new residential development in close proximity to public transport would provide the option of sustainable travel choices. However, the shortcomings of the proposed design would neither maintain nor enhance the built environment for the benefit of future generations, particularly in relation to traffic and visual impacts.
- c) **Biodiversity Principle** – The proposal relates to a site in an established built up urban area already occupied by buildings and as such, is unlikely to impact upon biological diversity or ecological integrity. The site therefore has a lower level of environmental sensitivity in this regard.
- d) **Valuation Principle** – The valuation principle is more appropriately applied to broader strategic planning decisions.

While the proposal incorporates measures to achieve sustainable design targets and is located close to public transport, the development is considered to be unsustainable principally due to its traffic and transport impacts and impacts on the built environment. On this basis, the department is not satisfied that the proposal is consistent with all the principles of ESD.

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

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director General's

Report is to address a number of requirements. These matters and the department's response are set out below:

Section 75l(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA, PPR, Revised PPR and additional information are located at Appendices A, C, D and E to this report respectively.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 4.2 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The environmental assessment of the project application is this report in its entirety.
A statement of compliance with the environmental assessment requirements under this Division with respect to the project.	In accordance with section 75l of the EP&A Act, the department is satisfied that the Director-General's environmental assessment requirements have been complied with.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in this report.
The suitability of the site for the project	The proposed uses are permitted under LLEP 2000 however the built form of the towers and traffic and transport impacts of the development are considered to be unsuitable for the site.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 of this report. The Proponent's response to the submissions appear at Appendices C and D .

State Environmental Planning Policy (Major Development) 2005

The Project remains a Part 3A project under the former provisions of Schedule 1, Clause 13, Group 5 of the Major Projects SEPP, "residential, commercial or retail projects" as DGRs were issued prior to 8 April 2011. The project has a capital investment value (CIV) of more than \$100 million satisfying the non-discretionary criteria of Clause 13.

State Environmental Planning Policy 55 – Remediation of Land

The Proponent submitted a Preliminary Contamination Assessment prepared by Urban Environmental Services in 2011 to undertake a Stage 1 Preliminary Contamination Assessment to determine potential contamination issues associated with the proposed redevelopment of the site. Their assessment concluded that the site historically was used for purposes that may have

included potential contaminating activities and recommended that a Stage 2 detailed investigation be undertaken in this regard.

The Proponent also submitted a Phase 1 Preliminary Environmental Site Assessment (PESA) and Remedial Action Plan prepared by AECOM in 2009 which related specifically to the former application determined by the Joint Regional Planning Panel. The PESA concluded that the site is capable of being remediated and that it could be made suitable for a mixed-use development. Should the application be supported new reports would be required for the proposed development bearing in mind specifically that there may be differences in the extent of excavation and there could also be additional land uses in the current application that may not have been contemplated in the JRPP application.

Accordingly, should the application be supported for approval appropriate conditions would need to be imposed to ensure the site could be made suitable for its proposed use in accordance with the provisions of SEPP 55.

State Environmental Planning Policy (Infrastructure)

The proposal is listed as traffic generating development within Schedule 3 of SEPP Infrastructure. Accordingly, the proposal was referred to the Roads and Maritime Services as a 'Traffic Generating Development'. The RMS comments are discussed in **Sections 4.2 and 5.1** of this report.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development if adequately managed is unlikely to have any biological or environmental impacts on Sydney Harbour and its tributaries, however the bulk, scale and design quality of the proposal is considered to be unsatisfactory which will result in negative visual impacts on the Sydney Harbour Catchment.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

Key Principles of SEPP 65	Department Consideration
Principle 1: Context	The proposed residential towers do not adequately respond to their local context and are considered to be inconsistent with the character of the area.
Principle 2: Scale	The proposed height, bulk and scale of the residential towers are considered inappropriate for such a prominent ridgeline site and consequently would have negative visual impacts on the local and wider area.
Principle 3: Built Form	The proposed residential towers provide an unacceptable built form outcome for the site as discussed in Section 5.2 of this report.
Principle 4: Density	The proposed density of the development is considered to be unsustainable for this site due to traffic and transport and built

	form impacts as discussed throughout this report.
Principle 5: Resource, Energy and Water Efficiency	The Revised PPR includes an ESD Report prepared by Cundall outlining the ESD initiatives proposed to be implemented as part of the development. A BASIX Certificate does not accompany the application however the ESD Report indicates that the proposal will comply with BASIX. The department is satisfied that this principle could be met by the proposal subject to relevant conditions.
Principle 6: Landscape	The proposed podium rooftop comprises a series of roof gardens and a communal open space area for residents including swimming pool, lawn and barbecue areas. Limited landscaping is proposed at ground level with the exception of some street tree planting along Waterloo Street. The department considers the proposal could satisfactorily meet this principle.
Principle 7: Amenity	The department is satisfied that the proposed design meets the solar access and natural ventilation requirements of the RFDC. The proposal also provides adequate building separation between the two residential towers. The height and outlook afforded by the residential towers would contribute to reasonable internal amenity for future residents of the development. As discussed in Section 5.2 of this report, the design concerns outlined by the Government Architect would however result in a substantially different built form to the towers proposed and accordingly a new SEPP 65 assessment would be required.
Principle 8: Safety and Security	The proposed development will provide limited passive surveillance of public areas from residential living rooms and balconies due to the enclosed nature of the proposed retail centre. The department considers the proposed building entry to Tower A will have good visibility from public spaces however concern is raised in relation to the design of the proposed Tower B entry. Should the proposal be supported it would be recommended that a condition be imposed requiring the Tower B entry to be redesigned to be more directly visible from either the street and/or the new retail plaza.
Principle 9: Social Dimensions and Housing Affordability	The proposed development provides for a mix of apartment types, which would provide for housing choice within the development. Furthermore, 10% of dwellings proposed are to be designed as adaptable dwellings.
Principle 10: Aesthetics	As discussed in Sections 5.2 and 5.3.3 of this report, the department has concerns with the architectural façade treatments of both the residential towers and the retail podium. While it is considered that changes to the podium could satisfactorily be resolved through conditions, the changes that would be required to the residential towers are so significant that the changes required are beyond the realm of conditioning as a redesign is unlikely to constitute substantially the same development as that currently proposed. The proposed residential towers are not appropriate for such a site located on a ridgeline with high visibility with no other tower development in close proximity.

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Overall, the department considers that the development is out of context with the surrounding Rozelle area, will have negative visual impacts on the local and wider area and does not achieve design excellence worthy of landmark tower status for such a prominent site. In this regard, it is considered that the proposal does not display an acceptable level of consistency with the principles of SEPP 65 and accordingly is not considered to be of good design.

Residential Flat Design Code (RFDC)

The Residential Flat Design Code (RFDC) is closely linked to the principles of SEPP 65. The Code sets out a number of “rules of thumb” which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

Residential Flat Design Code Compliance			
	RFDC requirement	Proposed	Complies
Part 1 Local Context			
Building Depth	Max 18m	27.6m	NO Unsatisfactory (refer to Section 5.2)
Building Separation (between habitable rooms & balconies)	<ul style="list-style-type: none"> Up to 4 storeys: 12m Five to 8 stories: 18m 9 stories and over: 24m 	<p>24 metres building separation is provided between the two residential towers</p> <p>Less than 24m provided between the proposed towers and adjoining dwellings</p>	<p>PARTIAL</p> <p>Complies in relation to separation distance between the two towers but greater separation distances/privacy screening should be provided between proposed towers and adjoining residences to address issues of visual bulk, spatial separation and privacy.</p>
Street Setbacks	Enhance streetscape character and allow for landscape character	A nil setback is provided to Victoria Road, which is consistent with the building on the corner of Victoria Road and Darling Street but forward of development	PARTIAL Acceptable on merit subject to recommended design modification to provide a nil setback to Darling Street consistent

	<p>to the north west of the site.</p> <p>A setback approximately 1.5m is provided to Darling Street, which is inconsistent with the nil setback provided to all other buildings in this section of the street.</p> <p>A nil setback is provided to Waterloo Street which is consistent with the retail premise on the corner of Darling street and Waterloo street but inconsistent with the street setbacks to dwelling houses along Waterloo Street.</p> <p>The existing development on the site contains setbacks along the Victoria Road and Waterloo Street frontages with the provision of landscaping within planter beds in these front setback areas.</p>	with streetscape character of the conservation area. (see Section 5.3)
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Part 2 Site Design

Deep Soil Landscaping	Min 25% of open space	None provided	NO Acceptable on merit as development is located above a basement carpark
Communal Open Space	25-30% or if this is not achieved increased private open space and / or in a contribution to public open space	<p>The application does not specify exact area of communal open space however design report indicates compliance.</p> <p>A significant communal open space area is provided for residents on Level 2 podium including swimming pool, bbq facilities and green roof.</p>	Acceptable on merit given that the proposal provides a significant open space area for residents on Level 2 podium.

Part 3 Building Design

Solar Access	70% of living rooms & private open space to achieve 3 hours solar between 9am-3pm on 21 June	70% of units will receive 3 hours of solar access.	YES
Single aspect units with southerly aspect	Limit those with southerly aspect (SE-SW) to no more than 10%	12% of units are single aspect with a south easterly to south-westerly aspect, however there are no direct south facing apartments.	NO Acceptable on merit given the site orientation, height of towers and views
Single aspect units - distance from window	Max 8m	Maximum 11m	NO Generally acceptable on merit noting good solar access across the development. Refer to Section 5.3.4.
Naturally cross ventilated	Min 60% of units	63% of apartments are proposed as naturally cross ventilated.	YES
Max units off a circulation core	Max 8 units	Maximum 8 units	YES
Accessible Storage facilities	One bedroom= 6m ² Two bedroom= 8m ² Three bedroom = 10m ² exclusive of wardrobes	Storage schedule has not been provided but Design Report states that storage will comply with RFDC requirements.	YES Acceptable on merit subject to condition to ensure adequate storage provision is compliant with RFDC requirements.
Kitchens with natural ventilation	Min 25%	<25%	NO Generally acceptable on merit as all kitchens are attached to a living room that has natural ventilation, however further opportunities exist to provide natural ventilation to kitchens in corner apartments, which could be conditioned.
Apartment Size (min)	1 bedroom = min 50m ² 2 bedroom= min 70m ²	1 bedroom = min 50m ² 2 bedroom = min 70m ²	YES

	3 bedroom = min 95m ²	3 bedroom = min 110m ²	
Balcony Depth	Min 2m	>2m	YES
Floor to ceiling heights	≥2.7m	Habitable rooms = 2.7m Non-habitable rooms (bathrooms and laundries) = 2.25 to 2.4m	YES

Leichhardt Local Environmental Plan (LEP) 2000

The provisions of Leichhardt LEP 2000 apply to the site. The table below contains a summary of the numerical compliance of the development against the LEP controls.

Clause	Control	Proposed	Compliance
Permissibility: Business Zone	Development not listed as prohibited is permissible with consent.	Residential, retail, commercial, club and community uses are permissible with consent.	YES The proposed uses are permissible in the zone with consent and are compatible with the zone objectives.
Part 3 Balmain Leagues Club Site Site Specific Objectives	The development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling The development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity The development is well designed with articulated height and massing providing a high quality transition to the existing streetscape		YES Acceptable on merit subject to conditions requiring design modifications to podium to improve connectivity between new centre and existing centre and streets. YES Acceptable on merit subject to conditions. NO. Refer to discussion in Sections 5.2 and 5.3.

	<p>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> <p>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>		<p>NO Refer to discussion in Section 5.1.</p> <p>YES No residential development is proposed at street level.</p>
Floor space	<p>Maximum FSRs:</p> <p>Whole Site - 3.9:1</p> <p>Shops - 1.3:1</p> <p>Commercial - 0.2:1</p> <p>Club – 0.5:1</p> <p>Residential – 1.9:1</p>	<p>Whole Site – 4.5:1</p> <p>Shops – 1.3:1</p> <p>Commercial – 0.2:1</p> <p>Club – 0.3:1</p> <p>Residential – 2.5:1</p>	NO
Height of buildings	<p>Maximum building height of 12.5m measured above street level for all buildings within 10m of Waterloo street.</p> <p>Maximum height of RL52 AHD and two storeys for all buildings located within 36m of Darling Street.</p> <p>Maximum building height for other parts of the site is RL 82 AHD and 12 storeys.</p>	<p>The proposed podium fronting Waterloo Street varies from around 10.4m to 15m.</p> <p>The height of the parapet is measured at approximately RL49.72 AHD.</p> <p>The proposal has a maximum height of RL 122 AHD and 25 storeys (including podium).</p>	<p>Partial - Acceptable on merit subject to conditions.</p> <p>YES – Satisfactory subject to deletion of the tennis court on the rooftop of Darling Street building.</p> <p>NO – Refer to discussion in Section</p>

			5.2 of this report.
Heritage	Part of the site fronting Darling Street is located within the Darling Street Conservation Area.		Refer to discussion in Section 5.3.4 of this report

Leichhardt Local Environmental Plan (LEP) 2013

Leichhardt LEP 2013 was gazetted on 23 December 2013. The site was listed as a deferred matter under LEP 2013 and therefore the zoning and development standards of LEP 2000 continue to apply to the site.