

## **Locomotive Workshop Mod 7 –Expansion of Retail Uses into Innovation Plaza**

### **RTBU RMA Submission**

The RTBU RMA is opposed to the application by Mirvac to modify the development consent applying to the reuse of the Locomotive Workshops by extending food and beverage uses into the public land and public recreation zone that forms Innovation Plaza. The RTBU RMA argues the application should be rejected.

Our submission argues that major public policy issues are raised by this Application. Ordinarily in the development of sites an application to modify an existing development application by lodging a Modification Application would be uncontroversial as they ordinarily cover minor matters. The previous 6 modifications applying to the reuse of the Locomotive Workshops certainly fit into this category.

The retail expansion application seeks Departmental approval to allow the permanent use of the western portion of Innovation Plaza for commercial retail use, dramatically increased outdoor seating areas,( with no supporting analysis of the impact of complying with Covid restrictions for seating, circulating ,customer numbers etc.) to establish two built structures and two awnings.

### **Commercialisation and privatisation of the Public Domain**

The retail expansion application however is dramatically different to previous developments applications for the ATP site in that it seeks to commercialise the western side of Innovation Plaza which will have the effect of permanently dividing this public space into private and public spaces.

This application is the first occasion in which the Department and Government agencies will have the opportunity to address a stand-alone application that addresses the public domain.

For example, in the application to reuse Bays 1-4a of the Workshops discuss about the public domain occupied one page of the IPC Statement of Reasons for Decision and was confined to the loading dock and the removal of one tree in the context of supporting retail uses in the Workshops.

Despite the rhetoric about the importance of the Public Domain the vacuum created by lack of a definite plan has created the opening for commercial retail uses in the Plaza. A potential for the Plaza to be a neglected public space beside a private, user pays food and beverage leisure space for the few who can afford to pay.

### **The Public's right to access all areas of the Plaza must continue**

The public land that incorporates Innovation Plaza is the subject of several environmental planning instruments covering zoning and land use including covenants and easements for public access.

Zoning for the Plaza has been established by the Environmental Planning Act 1979; State Environmental Planning Policy (State Significant Precincts) 2005; Redfern –Waterloo Built Environment Plan (Stage One) and covenants and easements which relate to public access rights.

The Environmental Planning Instruments state clearly and unequivocally that Innovation Plaza is zoned Public Land- to be used for Public Recreation purposes. The RTBU RMA argues development consent cannot be granted because commercial retail uses in the Plaza are wholly prohibited by the EPA Act.

The RTBU RMA argues that even if the development fell within the sphere of being partly prohibited this would be subject to the various covenants and easements which allow unfettered access by the public for public recreation in Innovation Plaza in its entirety. (See ATP Sale Positive Covenant-Public Access and the ATP Sale-Easement for Access.)A government press release of June 2016 was crystal clear about the public's access rights when it said *"the conditions of sale include public positive covenants and easements aimed to protect public access through the site"* <sup>1</sup>

No mention is made in the commercial retail expansion Application of the impact on the rights of the public, the citizens of NSW.

The Covenant and Easement provide that *"any Authorised User has a full, free and unimpeded right to enter the Public access areas for the purpose of public passive recreation and thoroughfare and to remain upon and pass and repass to, from and across the Public Access Areas at all times."*

## Revitalising the Public Domain is an urgent necessity

The RTBU RMA argues there are a number of disquieting features about the development process and this modification application.

The documentation for this application contains no quantification of the amount of seating that will be required for the food and beverage premises, no indication of the materials that will be used for the structures and their precise location. These are to be determined in a separate application which does not allow for community participation.

Previous development applications for the Australian Technology Park site have focussed on the development of three commercial buildings and the repurposing of the Locomotive Workshop for retail and commercial purposes. These have involved investments of approximately A\$500 million.

There has been scant attention paid to the development of the public domain and in particular Innovation Plaza. It has been all but ignored. The curtilage of the Locomotive Workshops abutting the Plaza has seen expenditures on windows, doors and lighting but Innovation Plaza itself has flown under the radar and its future as a public recreation space has not been the subject of community consultation.

The Association argues the neglect of the public domain is a major planning and policy failure and must be urgently rectified. The rejection of this application should be the first step in the process.

An examination of the documentation underpinning the Application reveals a number of grey areas and the non-inclusion of important issues.

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<sup>1</sup> Central to Eveleigh press announcement June 2016. Australian Technology Park Update.

1. Innovation Plaza consists of 3675.8 square meters of public land and the application argues it will only excise 18% or 671.8 square metres of the footprint needed for the implementation of the commercial retail expansion application.

The Association argues that it fails to take into account that a significant part of northern Innovation Plaza has been affected by the insertion of a loading dock with 3 truck bays directly into the Locomotive Workshops through Innovation Plaza thus severely impacting on public amenity and potential recreation use.

2. The application does not take into account the impact on pedestrian and cycle flows through Innovation Plaza, the major transit corridor for the precinct.

3. Nor does it refer to the Plaza as the green boulevard with its two rows of mature trees providing a haven for the local 10,000 strong workforce to socialise, network and have a lunchtime break.

4. The Plaza is at the heart and integral to the three heritage listed 19<sup>th</sup> century buildings that remain in the 13.2 acre Australian Technology Park precinct because all are situated around Innovation Plaza. They include, the Locomotive Workshops and the National Innovation Centre (New Locomotive Workshops) and the International Business Centre (former Works Managers Office). Innovation Plaza and provides by a country mile the best opportunity to enjoy the industrial aesthetics of the exceptional examples of late 19<sup>th</sup> century public industrial architecture within the whole ATP / Eveleigh South precinct.

5. The retail expansion Application does not mention the heritage listed machinery collection in the Plaza. It includes the Stephenson Loco Crane 1083 and the Wheel shop Pivot Crane.

In addition parts of the old rail line have been maintained in the northern section of the Plaza together with an old carriage displayed on one of the rail tracks as an interpretative element.

Importantly no mention is made in the Applicants documentation to social and labour history.

These are major omissions and must be addressed. The Association asks if the heritage machinery currently located in the Plaza will be relocated or the collection added to.

6. A number of other questions are raised by the Application. There is reference to a circulation path adjacent to the Locomotive Workshop. How large will it be and will it be closed to the public? A fleeting reference is made an option for events and two bar /keg structures. What are the implications of these on future uses of the Plaza for public recreation?

## **\$64,000 Question**

The sleeper issue and \$64,000 question is, why after 5 years of private ownership, hasn't a community orientated plan for the entire Innovation Plaza been developed to create an imaginative public recreation space?

Draft concept plans have been produced by the applicant for the Plaza e.g pocket park, kids' education play, fun plaza furniture, differing weekday and weekend activities, lunchtime activities, a pavilion, public art, creation of space for outdoor cinema utilising the northern boundary for the Plaza etc.

These concept plans have not seen the light of day and little attempt has been made to engage in dialogue with the public about the future of the Plaza for public recreation purposes.

There is clearly an alternative to the Commercial Retail Expansion Application, one that provides significant public benefits and almost unlimited opportunities to transform public land into an imaginative multi-purpose public recreation place, following dialogue with the public that would benefit all current and future generations of NSW citizens.

## Consultation processes fail to deliver for the Local Community and the NSW Public

The Applicant argues in their supporting documentation *“Following the preparation of the initial place making strategy, Mirvac’s Project Team held several meetings with a range of different agencies and stakeholders including ...on 25<sup>th</sup> November 2019 South Eveleigh Community Liaison Group -Presentation and Discussion”*. The RRBURMA is a member of the CLG and was present at the meeting referred to.

At the meeting a 100 page PowerPoint presentation was made to the CLG. It was one of a number of agenda items to be dealt with. 52 pages were devoted to Innovation Plaza. In the world of consultants one or two words per page and glossy pictures comprised the presentation. Each page of the presentation was marked at the bottom Concept only- please do not circulate.

CLG members represent various community groups and were thus unable to discuss any of the documentation with their constituents. The 52 page PowerPoint presentation had 3 pages referring to retail uses and the public plaza. Not all pages were discussed. The presentation focussed on concepts.

However the presentation highlighted that there were many possible alternatives for the interpretation of the entire Plaza which involved a smorgasbord of public recreation activities including a multitude of recreation, lunch time activities, public art space etc.

No reference was made in the presentation to the commercialisation of public land for retail purposes, the seating numbers, the area of the Plaza to be alienated, the size number and location of various structures and awnings. The summary minutes of the meeting provide the kernel of what was discussed at the meeting.

The Summary notes of the meeting sum up potential public recreation activities e.g pocket park, Kid education play, fun plaza furniture, weekday/weekend activities, temporary street art, weekday and weekend activations, flexible fun furniture-beautiful land interactive displays etc. The Minutes contain no reference to commercial retail issues.

The Summary of the Meeting refers to the Mirvac presentation in the following terms

*“Innovation plaza will be alive with local heritage” interactive...Can we create a stage at the rear of Innovation Plaza –movies and concerts-festivals –arts, craft and food? Some Conceptual ideas: Temporary art street: weekday and weekend activations; flexible fun furniture”etc.*

*Transformation-creation something for the future...considering working with the Powerhouse to come up with children's activities ... it's about the activating the plaza and bringing the heritage from inside out into the Plaza...We will continue to adjust our plans as we move in to the future"*

A senior manager made the comment *"Innovation Plaza, the cultural garden and the Locomotive Workshop will be the heart of the precinct."*

Comments made by CLG community representatives included *"amazing early history of the area is not reflected in your plans at all. The biggest union movement started here...create places for relaxation as well. Consider the impact of the additional 10,000 people using the site. It will be really appealing if it stays quite tranquil- we don't want the area to be activated at all hours of the day...there needs to be a locomotive of some description in the public domain"*

### RTBU RMA Comments Concerning Community Consultation

1. The presentation at CLG meeting 29 was about the broad concept of place making in Innovation Plaza in the widest sense. The overwhelming majority of concepts concerned public recreation uses for this public space.
2. No reference was made to the details of the retail commercialisation of the public recreation zone nor was information given as to the footprint, structures, awnings, seating numbers etc.
3. The next occasion CLG members were aware of the place making Mirvac plans for Innovation Plaza was on the 18<sup>th</sup> December 2020 when Mirvac's Modification 7 Plans were table for public exhibition. Thus 13 months had elapsed since the initial concept only, place making plans for innovation Plaza had been made to the CLG.

CLG members were presented with a fait accompli when only the commercial retail plans only were put on public exhibition.

This was a comprehensive denial of community representatives and community rights in an application involving public land. The consultative process for the community has been threadbare, deceptive, non- inclusive and on these grounds alone the Mirvac application should be rejected.

In rejecting the Application the Association asks the Department/IPC to take into account the Objectives of the EPA Act, 1979 which provides in Part 1 Clause 3(j) *to provide for increased opportunity for community participation in environmental planning and assessment.*

5. The IPC in its Reasons for Decision (Re SSD8517) noted at p31 para 176. *How the Commission Took Community Views into Consideration. "The Commission considers it is important the community are well informed of the Applicants requirements under the Community Consultation strategy."*

The RTBU RMA argues that the Applicant has not complied with the Community Communication Strategy.

### Substantially the Same Development:

A considerable portion of the Application is devoted to this issue and references are made to the application to reuse the workshops in bays 1-4a, temporary land use plans, and the need for a contextual assessment, GFA and footprint comparisons, and an examination of factors to be included in a qualitative assessment of the modification application.

In summary the applicant argues the modified development application is *"generally unchanged"* and therefore should be granted.

The RTBU RMA argues the modified application is a major policy change in that it relates to public land zoned public recreation whereas as the original application was for the reuse of Locomotive Workshop Bays s 1-4a.

The applicant acknowledges that *"there is no hard and fast rule when it comes to determining what constitutes "substantially the same development"."*

The quantitative assessment of the impact of the modification ignores the totality of the impact on Innovation Plaza of all development applications and the objectives of the development for all of Innovation Plaza. The ATP, site for development purposes, was divided into five zones. Zone 5 was the public domain which included Innovation Plaza. The various applications have cumulatively impacted on the Plaza. The loading dock and the removal of one large tree have a significant impact on the public recreation uses and public amenity of the Plaza. This has not been taken into account.

The quantitative assessment argues that the removal of 18% of the total of 3675.8m<sup>2</sup> is *"modest."* In order to put this into perspective the footprint of 671.8m<sup>2</sup> for the permanent commercial retail space is the size of 3.5 average sized Australian homes.

The application in one sentence reference refers to an option for outdoor private events being held in the public space. There is already an indoor private event space approved for in Bay 3-by Grounds Coffee. It provides in addition to a restaurant an event space catering for 500 plus people.

Yet little work has been done on what type of public and community events and meetings as well as markets will held for the publics enjoyment on land zoned for public recreation purposes. A reference is made to an option for private events to be held in Innovation Plaza

and no details are given. Once again the potential for “mission creep” by the Applicant is potentially provided for in either the Applicants RTS or the fit out applications which have no provision for community participation.

The PR spin about commercialisation of retail space on public land being “a natural *extension*” of the approved retail uses within the workshops and builds on builds on the established “*social purpose that is implicit in the public domain as envisaged by the approved development*” in the Workshops should be rejected for what it is .

Neither there is no commitment to what the retail space would be used for but vague references a secondary to a service area or bar nor is mention made of two bar/keg structures. The retail premises are “*likely to be operated by the same tenant.*” The RTBU RMA argues this modification enables a holistic view to be taken about the future of Innovation Plaza not the slice and dice use of planning and development processes to significantly encroach on public land for commercial retail purposes not allowed by various environmental planning instruments, covenants and easements.

The Applicant argues that the proposed commercial retail space in Innovation Plaza is similar to the Opera Bar. The RTBU RMA argues this is not the case. The Opera Bar is located a hundred metres from the Opera House and is not abutting a heritage listed building. The Opera Bar is not a part of a much larger public space, is part of a Greenfields site, has live music every night and does not have bar/keg room provisions in the outdoor seating area. Moreover the hours of operation for the Opera Bar are 11am to 12.30 and Monday to Thursday, 11.30 to 11pm, Friday, 11.30 to 12.30, Saturday 11am to 12.30am and Sunday 11am to 10pm. These hours are significantly less than the 6am to 1am operating hours sought by Mirvac.

The applicant argues” *the proposed modifications are not anticipated to result in any additional or unacceptable impacts.*” No mention is made of the potential safety impacts of the trucks using the loading docks and there being significant overlay with the proposed operating hours of the private bar/s operating in the Plaza... More importantly the residents in the residential housing surrounding the precinct have not been asked for their opinions which from the comments of their representatives on the CLG they were adamant about the need for continued tranquillity of the precinct being of most importance to them.

### Reasons Given for Granting Consent

The Applicant argues that the six reasons underpinning the SSD8517 application are equally applicable to the current application. The RTBU RMA argues when these reasons are examined in the context of the current application a quite different picture emerges.

The RTBU RMA has argued this application should be rejected and that the applicant be directed to produce a community supported plan for the public recreation space that compromises the whole of Innovation Plaza.

The Applicants arguments concerning continued primary use of public space, activation, enhanced safety, that the indicative commercial use footprint is minor should be assessed in the context of the Modification Application. The public domain as represented by Innovation Plaza has not been the subject of searching scrutiny by the Department or IPC and now is the time for this to be done. For example, the IPC Reasons for Decision of February 2019 in respect of Public Domain referred in paragraphs 145 and 146 to only the loading dock and a tree removal.

A continuing theme of all SSD applications to this site is that amenity through use and activation is a key principle. When applied to this application it is far from being persuasive. Under the ATP the number of workers on site was approximately 1900 with very few visitors. It is estimated that by April 2021 the number of workers will be 12000 and the number of visitors per day 10,000: in total an eleven fold increase in 5 years.

The activation resulting from this application is negligible. No figures have been put forward. Given the probable retail use will be the same as the food and beverage tenant within the workshop it is likely the few additional new visitors will be further diminished.

The RTBU RMA challenges the Applicants assertion that the proposed commercial retail footprint is minor in the context of the Plaza.

The Applicant has not indicated the amount of seating or the indicative patronage expected as these matters will be subject to further consultation with the Heritage Council and Council. Thus the consent criteria of the previous DA when applied to this application are far from persuasive and do not withstand scrutiny.

The Applicant at 5.4.2 of the Application sets out a number of reasons under Public Interest as to why the modification application should be granted. These include:

*A specialised outdoor retail space.* Given that the tenant will be already be within the workshop no new specialised retail space is added.

*An improved social destination.* No evidence is presented.

*An opportunity for patrons to comfortably sit and enjoy the visual amenity and industrial aesthetic.* A new principle of user pays is introduced. No mention is made of the impact on the public's amenity and industrial aesthetic appreciation and how it is impacted by the western side of the Plaza being commercialised with perhaps hundreds of patrons attended by new structures up to 4.8m in height, awnings and bar/keg facilities. Lines of sight will be severely disrupted.

No employment figures are given for this application or details given as to whether new jobs will be created or existing workers given extras shifts or whether the new jobs will be paid according to legal wages and conditions and superannuation entitlements and if these jobs will be casual or permanent positions.



*Further opportunities for the tenant to demonstrate excellence in design and environmental sustainability.* Given the tenant is most likely an existing tenant within the workshop and the commercialised retail space is “*spill over*” or a secondary service area from inside, that the outer service area consists of seating for food and beverage the factors that can demonstrate excellence in design are very limited . The scope to showcase environmentally sustainable matters including water usage, electricity, heating and lighting usage etc. will be limited as these facilities will be located within the workshop. Therefore the scope and extent of demonstrating excellence in environmental sustainability is very limited.

The RTBU RMA argues an examination of the grounds supporting public interest have not been established and that as the public benefits accrue to relatively few private citizens no significant public benefits have been created and the Applications should be refused as not being in the Public Interest. Moreover the few benefits that accrue are to private individuals and a private company. The RTBU RMA argues that the public interest is not served by the commercialisation of public recreation space for private benefit and the application should be rejected.