

8 March 2016

**ADVICE ON A GATEWAY REVIEW REQUEST  
BALMAIN LEAGUES CLUB, DARLING STREET/VICTORIA ROAD, ROZELLE**

**REQUEST FOR ADVICE**

On 5 February 2016, the Deputy Secretary of the Department of Planning and Environment (the Department) requested that the Planning Assessment Commission (the Commission) provide advice on a Gateway review determination for the Balmain Leagues Club site. The proponent, Leichhardt Municipal Council (Council), is seeking a review of the determination that their Planning Proposal to amend the *Leichhardt Local Environmental Plan (LEP) 2013* for the site, should not proceed.

The Department requested that the Commission “*review the planning proposal and provide advice concerning the merits of the request for review*”. Ms Lynelle Briggs AO, Chair of the Commission, appointed Ms Abigail Goldberg (chair) and Ms Annabelle Pegrum AM to constitute the Commission for this matter.

**BACKGROUND**

The site, previously the base of the Balmain Leagues Club, is currently subject to the *Leichhardt Local Environmental Plan 2000 (LLEP 2000)* having been deferred from the *Leichhardt Local Environmental Plan 2013 (LLEP 2013)*.

The site has been the subject of a number of planning proposals and determinations including:

<b>Proposal</b>	<b>Summary description</b>	<b>Status</b>
2010: Development Application D2009/352 2010	Demolition of existing structures, excavation and remediation; and construction of a mixed use development including: <ul style="list-style-type: none"> <li>• 145 dwellings within townhouses and apartments and three residential flat buildings;</li> <li>• Retail shops, restaurants, a supermarket and commercial offices;</li> <li>• A public plaza, new leagues club and an infill building;</li> <li>• Car parking for 550 vehicles; and</li> <li>• A pedestrian bridge across Victoria Road.</li> </ul>	Refused by the Sydney Region East Joint Regional Planning Panel (JRPP) on 9 July 2010 for the following reasons: <ol style="list-style-type: none"> <li>a. Proposal exceeds the FSR and height per LLEP 2000;</li> <li>b. Proposal has an unacceptable impact on traffic;</li> <li>c. The proposal has not satisfied the Council’s Design Review Panel on the quality of design; and</li> <li>d. The proposal does not provide high amenity within apartments.</li> </ol> <p>The JRPP advised that it would require any future application to demonstrate complete compliance with LLEP 2000; a report that traffic impacts are acceptable; and support from Council’s Design Review Panel regarding design quality and amenity.</p>

Proposal	Summary description	Status
2014: Part 3A Development Application (MP11_0015)	Demolition of existing structures, excavation and remediation; and construction of a mixed use development including: <ul style="list-style-type: none"> <li>• Two towers of 24 and 20 storeys in height;</li> <li>• 247 residential apartments;</li> <li>• Retail space including a supermarket, mini-major and speciality retail;</li> <li>• A new Balmain Leagues Club;</li> <li>• Community and commercial facilities including a childcare centre, medical centre, commercial office space; and</li> <li>• Car parking for 488 vehicles on site and new traffic arrangements.</li> </ul>	On 11 April 2014, the Planning Assessment Commission refused this application for the following reasons: <ol style="list-style-type: none"> <li>1. Adverse impacts on the operation of the surrounding road network;</li> <li>2. Adverse impacts on bus services, including significant increased travel times for routes along Darling Street;</li> <li>3. The development does not allow vehicles to exit the site from Victoria Road safely and efficiently; and</li> <li>4. By virtue of reasons 1, 2 and 3 above, the development is not considered to be in the public interest.</li> </ol> <p>In its determination report, the Commission noted that in its view <i>the provisions in LLEP 2000 (as amended) provide an appropriate framework for the site's future redevelopment.</i></p>
2015: Development Application (D/2015/438)	Demolition of existing structures and remediation of the site; and construction of a mixed use development including: <ul style="list-style-type: none"> <li>• Two residential towers of 12 and 8 storeys in height comprising 135 apartments;</li> <li>• Public plaza levels containing speciality retail areas, supermarket and a new club premises;</li> <li>• A new infill commercial building;</li> <li>• Townhouses; and</li> <li>• Associated car parking.</li> </ul>	The development application (DA) was submitted by Rozelle Village Pty Ltd (the landowner) to Council on 14 August 2015. <p>On 13 October 2015, the landowner lodged an appeal against Council's 'Deemed Refusal' of the DA at the Land and Environment Court. The development application had not proceeded to the JRPP for consideration, and instead Court proceedings on the matter are currently underway.</p>
2015: Planning Proposal	The Planning Proposal sought to amend LLEP 2013 by rezoning the site from 'Business' to 'B2 – Local Centre' and introducing a site specific floor space ratio (FSR), a maximum building height of 6 – 8 storeys and minimum building setback standards.	Council submitted the Planning Proposal to the Department on 24 August 2015. <p>On 2 October 2015, the Gateway Panel of the Department determined that the application should not proceed past Gateway. The rationale for this decision was:</p> <ol style="list-style-type: none"> <li>1. Inconsistency with Section 117 Directions;</li> <li>2. Inconsistency with SEPP 32 Urban Consolidation (Redevelopment of Urban Land);</li> <li>3. The significant reduction in development potential for the site inconsistent with <i>A Plan for Growing Sydney</i>;</li> <li>4. Insufficient justification for the reduction in development capacity, particularly considering the advice of the (former) Commission in its 2014 refusal of the Part 3A development application for the site.</li> </ol>

## **REQUEST FOR ADVICE 2016: GATEWAY DETERMINATION REVIEW**

Council requested a review of the Gateway determination that the Planning Proposal should not proceed on 2 November 2015. As noted above, the Department has requested the advice of the Commission on this matter.

In undertaking its review, the Commission considered the current planning context, reviewed the Planning Proposal and response of the Gateway Panel, undertook a site visit and met with both the Department and Council. The outcome of these processes are summarised below.

The Commission also sought internal legal advice considering that its review process is taking place simultaneous with proceedings in the Court related to the same site. In this regard, the Commission was advised that the two processes are separate, and able to proceed in parallel.

### **Planning context:**

The Commission notes that the site is currently identified as a 'Deferred Matter' under LLEP 2013. Consequently, the LLEP 2000 provisions continue to apply to the site. Pursuant to LLEP 2000, the site is zoned 'Business', has a FSR of 3.9:1 and a maximum building height of 12 storeys.

The Planning Proposal seeks to amend LLEP 2013 to include provisions for the site. It is proposed that the site be rezoned to 'B2 Local Centre' and have a base FSR of 1:1, with separate incentives of 0.5:1 for mixed use development incorporating active street frontage, and 0.9:1 for mixed use development incorporating a registered club; a maximum building height of 6-8 storeys; the allocation of a range of gross floor areas for residential, commercial, retail and club uses; and minimum setbacks for building in the precinct.

The Commission visited the site and its surroundings on 23 February 2016. The Commission noted the run-down and derelict condition of the site, and the negative impact of this on the surrounding context.

### **Commission meetings:**

The Commission met with the Department on 23 February 2016. Key issues discussed included:

- The history and deferred planning status of the site in LLEP 2013;
- The timing of the provision of the Commission's advice having regard to the status of the current Land and Environment Court case that is underway; and
- The Department's views on the Planning Proposal.

The Commission also met with Council, the Applicant, on 23 February 2016. Key issues discussed included:

- The history of the site;
- Traffic and transport concerns for Victoria Road;
- Concerns of Council and the local community regarding the re-instatement of the Balmain Leagues Club within the precinct;
- Studies undertaken by Council in response to the JRPP 2010 considerations;
- The current statutory provisions and Council's desire to update LLEP 2013 to remove the deferred status for the site; and

- The status of the development application currently under consideration by the Land and Environment Court.

A summary of these meetings is attached at **Appendix 1**.

### **COMMISSION'S COMMENTS**

The Commission has carefully reviewed the background of this application, the merits of the Planning Proposal, the views of Council and the Department, Council's reasons set out in their justification assessment for Gateway Review, and the Department's Gateway Panel report.

The Commission acknowledges Council's concern that the planning framework for the site should be updated, and that current and forecast traffic patterns in particular should be taken into account. The Commission also notes that the indicative urban design outcome proposed by Council is based on appropriate urban design principles.

The Commission agrees with the Department panel consideration of September 2015 that the proposed B2 Local Centre zone is appropriate and that the Balmain Leagues Club precinct should, in principle, be included in LLEP 2013.

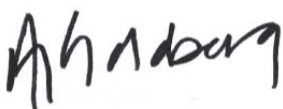
The Commission is also of the view that there is merit in re-examining site specific controls for the precinct in LLEP 2013. However, the Commission notes that only one possible design outcome appears to have been tested by Council in a precinct where other development strategies would be possible. Moreover the planning proposal does not appear to have been benchmarked, including for site development and density potential, as would be expected in a rigorous planning process, and in particular with reference to the current capability of LLEP 2000. There is limited justification therefore for the reduction in development capability currently within LLEP 2000. The Commission also notes that nothing within LLEP 2000 would preclude the type of development outcome envisaged by Council in the proposed amendment.

The Commission also observes that the Planning Proposal has been prepared without due consultation with the landowner, as would ordinarily be expected of a democratic, consultative planning process.

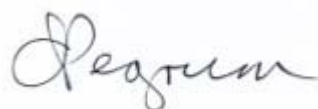
In summary, the Commission concurs with the Department that insufficient justification has been provided at this time for the proposal to proceed past Gateway.

### **COMMISSION'S ADVICE**

The Commission's advice is for the review of the Planning Proposal in its current form not to proceed due to insufficient justification having been provided.



Ms Abigail Goldberg  
**Commission Chair**



Ms Annabelle Pegrum AM  
**Commission Member**

**Appendix 1**  
**Meeting Notes**

## Notes of Briefing from the Department of Planning and Environment – 23 February 2016

<b>Meeting note taken by:</b> Jade Shepherd	<b>Date:</b> Tuesday, 23 February 2016	<b>Time:</b> 2pm
<b>Project:</b> Gateway Review Advice – Balmain Leagues Club		
<b>Meeting place:</b> Planning Assessment Commission Office		
<b>Attendees:</b>  Members of the Commission: Abigail Goldberg (chair) Annabelle Pegrum AM  Commission Secretariat: Jade Shepherd – Planning Officer  The Department of Planning and Environment (the Department): Andrew Watkins – Planning Officer, Metropolitan (CBD)/Sydney Region East Planning Services Martin Cooper – Team Leader, Metropolitan (CBD)/Sydney Region East Planning Services Karen Armstrong – Director, Metropolitan (CBD)/Sydney Region East Planning Services		
<b>The purpose of the meeting:</b> For the Department to brief the Commission on the project.		
<p>The Department provided a brief overview of the application and raised the following key matters:</p> <ul style="list-style-type: none"><li>• The Department deferred the inclusion of the site in LLEP 2013 because the former development application for the site was still in the process of being assessed.</li><li>• Department was of the view that the amended documentation did not provide sufficient justification to demonstrate that the standards outlined in LLEP 2000 did not work.</li></ul> <p>The following matters were also discussed:</p> <ul style="list-style-type: none"><li>• The Commission queried if the Department had had discussions with the landowner regarding the Planning Proposal. The Department indicated that it had had limited interaction with the landowner.</li><li>• The Commission advised the Department that upon researching the site, it had found that the site is subject to Court proceedings. The Commission queried whether the Department had information about the current status of the Court case. The Department indicated that hearings for the development application are scheduled for late March and early April 2016.</li><li>• The Commission noted that it has 28 days from 12 February 2016 to provide its advice on the project. The Commission requested advice from the Department on the legal standing and timing of the provision of the Commission’s advice, given that the Court case is underway.</li></ul>		
<b>Documents:</b> N/A		
<b>Meeting closed:</b> 2:30pm		

## Notes of briefing from Leichhardt Municipal Council – 23 February 2016

<b>Meeting note taken by:</b> Jade Shepherd	<b>Date:</b> Tuesday, 23 February 2016	<b>Time:</b> 4pm
<b>Project:</b> Gateway Review Advice – Balmain Leagues Club		
<b>Meeting place:</b> Leichardt Municipal Council Office		
<b>Attendees:</b> Members of the Commission: Abigail Goldberg (chair) Annabelle Pegrum AM  Commission Secretariat: Jade Shepherd – Planning Officer  Leichardt Municipal Council (Council): Clare Harley – Manager Environment and Urban Mark Bonnano – Manager Legal Services		
<b>The purpose of the meeting:</b> For Council to brief the Commission on the project.		
Council raised the following key matters:  <u>Background</u> <ul style="list-style-type: none"><li>• Rozelle Village Pty Ltd is the land owner.</li><li>• Council indicated that it would provide a revised Statement of Facts and Contentions outlining the history of the site as presented to the Court.</li><li>• Balmain Leagues Club entered into a Voluntary Planning Agreement (VPA) with Council in 2008 for the current LLEP 2000 controls. The VPA needs to be amended because no bridge over Victoria Road has been constructed.</li><li>• There is no legal requirement for the club to return to the site. This is a significant concern for Council having regard to the community value of the club.</li><li>• Balmain Tigers are currently renting sites at Homebush and Five Dock.</li></ul> <u>Development Application (DA) in Court Proceedings</u> <ul style="list-style-type: none"><li>• The DA was lodged on 14 August 2015.</li><li>• An appeal against the ‘deemed refusal’ of the DA was filed with the Land and Environment Court on 8 October 2015 and served on Council on 13 October 2015.</li><li>• The DA was to be determined by the JRPP on 4 February 2016.</li><li>• Council acknowledges that the current DA complies with building height and FSR standards. However Council has concerns in regards to traffic, the interface between the commercial centre and the shops along Darling Street, the built form and that no affordable housing is provided in the scheme.</li></ul> <u>The Planning Proposal</u> <ul style="list-style-type: none"><li>• Council had undertaken considerable planning work on the site post the JRPP consideration in 2010.</li></ul>		

- The Planning Proposal is an important 'tidiness exercise' to update LLEP 2013.
- Hill PDA has concluded that Council's proposed scheme would still provide the developer with a reasonable rate of return.
- There has been limited discussion between Council and the landowner about the Planning Proposal.
- Council is of the view that the proposed standards would reduce traffic impacts from any development on the site.
- Victoria Road already experiences heavy traffic and there will be increased traffic in the future. The road is projected to be a transfer corridor under the 'Plan for Growing Sydney'. There will be West Connex Portals in Rozelle. One lane will be allocated as a 'rapid bus transfer' lane.
- The concept plan approval for the Sydney Metro railway is still in place, affecting the site, but this project is considered unlikely to proceed in the form anticipated.

**Documents:** N/A

**Meeting closed:** 5pm