

<b>JRPP Ref No.</b>	2009SYE007
<b>Development Application No.</b>	➤ D/2009/352
<b>Address</b>	➤ 138-152 & 154-156 Victoria Road Rozelle 697 Darling Street Rozelle 1, 3, 5, & 7 Waterloo Street Rozelle Part 663 Darling Street Rozelle
<b>Description of Development</b>	<p>➤ Demolition; excavation; remediation of the site; construction of a mixed use development including:</p> <p>145 dwellings within townhouses and apartments on Waterloo Street and three residential apartment buildings located on the northern, southern and western portions of the site</p> <p>Retail shops, restaurants, a supermarket and commercial offices</p> <p>Public plaza</p> <p>Club premises</p> <p>Infill building on Darling Street</p> <p>Parking for 467 cars</p> <p>Loading and unloading bays</p> <p>Construction of a pedestrian bridge across Victoria Road and located partly on Rozelle Public School</p>
<b>Date of Receipt</b>	➤ 3 September 2009
<b>Value of Works</b>	➤ \$98,160,000 initially (\$96,650,000 amended by the applicant at a later stage )
<b>Applicant's Details</b>	➤ Nick Byrne - Dko Architecture NSW Pty Ltd C19/38-48 MacArthur St, ULTIMO NSW 2007

<b>Owner's Details</b>	➤ Balmain Leagues Club Ltd PO Box 1777, ROZELLE NSW 2039
<b>Notification Dates</b>	➤ 1st Round: 21/1/10 to 1/3/10 Last Round: 22/4/10 – 24/5/10 (As amended)
<b>Number of Submissions</b>	➤ As detailed in the report
<b>Building Classification</b>	➤ Classes 2, 5, 6, 7a, 7b and 9b
<b>Integrated Development</b>	➤ No

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<b>Main Issues</b>	<ul style="list-style-type: none"> <li>➤ Lack of owners consent for bridge works</li> <li>➤ Breaches of development standards</li> <li>➤ Urban design</li> <li>➤ Traffic, parking and access and egress</li> <li>➤ Amenity impacts</li> <li>➤ Capital Investment Value</li> <li>➤ Adequacy of plans and information</li> <li>➤ Solar access to dwellings</li> <li>➤ Voluntary Planning Agreement</li> </ul>
<b>Recommendation</b>	➤ Refusal

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<b>Attachment A</b>	➤ Plans of proposal
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## 1. PROPOSAL AND HISTORY

This application seeks consent for the following works at the Balmain Leagues Club, site at 138-152 and 154-156 Victoria Road, 697 Darling Street, and 1, 3, 5, and 7 Waterloo Street, Rozelle, and at Part 663 Darling Street Rozelle:

1. Demolition of all existing structures.
2. Remediation of the site.
3. Excavation to provide for six (6) basement levels providing for 467 car spaces, loading / unloading bays, specialty retail shops, a mini major, fresh food, a supermarket, a mall (with kiosk), and ancillary spaces, the basements accessed via Victoria Road and / or Waterloo Street.
4. Construction of a public plaza level with pedestrian access via Waterloo Street, Darling Street and Victoria Road, and a commercial level above (Level 1), comprising specialty retail / restaurants, commercial offices and a new club premises (with club mezzanine at Level 2), as well as construction of new two (2) level infill buildings on Darling Street containing specialty retail, a restaurant and commercial tenancies / professional consulting rooms.
5. Construction of:
  - a) Thirteen (13) new single to three (3) level residential townhouses and apartments on Waterloo Street; and
  - b) Three residential apartment buildings as follows:
    - i) Building A which is located on the southern part of the site comprising eighty-seven (87) units within eleven (11) levels. This building is a total of thirteen (13) storeys measured from plaza level;
    - ii) Building B which is located on the western part of the site comprising fifteen (15) units within five (5) levels. This building is a total of six (6) storeys measured from plaza level; and
    - iii) Building C which is located on the northern part of the site comprising thirty (30) units within six (6) levels. This building is a total of eight (8) storeys measured from plaza level.

The total number of dwellings proposed is 145.

The proposal also involves the:

- i) Construction of a pedestrian bridge across Victoria Road and located partly on the Rozelle Public School site fronting Victoria Road known as 663 Darling Street, Rozelle. The bridge construction will involve works to the footpath on the north-eastern side of Victoria Road and minor demolition of part of the existing retaining wall and rectification works adjacent to the Rozelle Public School land and Victoria Road. The bridge construction is required to comply with a Voluntary Planning Agreement associated with the site specific planning controls of the Leichhardt Development Control Plan 2000.
- ii) New public domain and improvements to existing pedestrian infrastructure along Darling and Waterloo Streets and Victoria Road fronting the subject site

as well as along part of the north-eastern side of Victoria Road in response to Part D1.9 of the Leichhardt Development Control Plan 2000 and as per the Rozelle Main Streets MasterPlan.

The application does not involve the specific fitout of the club, supermarket, mini major, fresh food, commercial or specialty retail components, including those nominated as restaurants. The applicant's Statement of Environmental Effects (as amended) states that consent is sought for general use of the retail and commercial components and that the club use (and fitout) will be subject to a future Development Application. Therefore, the proposal involves the construction of the club, supermarket, mini major, fresh food, commercial and specialty retail components, including those nominated as restaurants to "shell" status only, and not fitout or operational status.

The applicant's Statement of Environmental Effects has provided the following information regarding hours of operation of the various components of the development:

- Club premises – not specified (subject to future Development Application);
- Supermarket and mini major at basement level 1 and the fresh food shop at basement level 2 - 24 hours a day;
- Remaining speciality retail tenancies (including restaurants) - 7.30am to 7.30pm Monday to Friday, 7.30am to 6.00pm Saturday and 8.30am to 6.00pm Sunday; and
- Commercial premises - 7.30am to 7.30pm Monday to Friday, 7.30am to 6.00pm Saturday and 8.30am to 6.00pm Sunday.
- Plaza – available for use by the public at all times.

Council has met with the applicant and consultants, together with the Design Review Panel, on numerous occasions with the aim of resolving various issues arising during the assessment process. As a result, various sets of amended plans have been lodged. The last set of notified plans were lodged in April 2010 and notified between 22 April 2010 and 24 May 2010. The applicant requested Council notify the amended plans, despite the fact that a number of issues remained unresolved.

Following the end of notification (24 May 2010), the applicant was again advised that a number of issues remained unresolved. Subsequent meetings with the applicant transpired to advise on the design aspects of this application.

Amended plans and further information were lodged on 11 June 2010, which form the basis of this assessment. The differences from the plans last notified include:

- Amendments at Basement 5 and 6, including a significant reduction in the size and scale of Basement 6, amendments to their arrangement, configuration and access, changes to storage area provision to residential units, deletion of commercial car parking at Basement 6 and the addition of secured residential parking area at Basement 5;

- Reduction in car parking spaces from 550 to 467;
- Reduction in the number of specialty retail tenancies nominated as restaurant at Plaza Level and Basements 1 and 2 from thirteen (13) to five (5), these restaurants all being located at Plaza Level;
- Additional shade / shelter provision, including the provision of perimeter pergolas around the plaza;
- Amendments to the club component, resulting in an overall reduction in its bulk and scale particularly adjacent to adjoining Waterloo Street properties, including a reduction in the size of the club at Level 2 and a reduction in the scale of the winter terrace;
- Amendments to the design and detailing of the northern and western facades of the club component, including to provide for treated timber trellis' to these elevations;
- Adjustments to the façade design and detailing to the Waterloo Street elevations on the Waterloo Street terraces;
- Deletion of the second substation on Waterloo Street;
- Amendments to the glazing / insulation to the apartments in Towers A and C on Victoria Road;
- Changes to the layout of the dwellings in Towers A and C on Victoria Road, including changes to the location of the living rooms, terraces and bedrooms;
- Provision of additional signage "zones" to the Victoria Road elevation;
- Additional privacy mitigation measures to some dwellings; and
- Provision of further detailing and correction of various errors and omissions on plans.

The proposal results in a reduction in overall floor space to the development, including a substantial reduction in club floor space.

As a minimum, the changes to the Waterloo Street terraces, the club façade changes, the changes to the layout of the dwellings of Towers A and C and the car parking changes should be renotified to neighbours in accordance with Council's Notification Policy, Development Control Plan No. 36. However, Council has not renotified the plans due to:

- A number of issues that remain unresolved as detailed in the following assessment. Some of these issues can not be readily resolved without a redesign of the proposal and the submission of adequate and accurate information;
- The applicant being unable to obtain owners consent for the bridge works over the adjoining Rozelle Public School site; and

- Time constraints relating to the deadline for reporting of the matter to the Joint Regional Planning Panel.

## **2. SITE DESCRIPTION**

### **2.1 Subject Site**

The development site is known as the Balmain Leagues Club Precinct site and is comprised of 8 allotments which are legally identified as follows:

- Lot 1, DP 528045 (134 - 152 Victoria Road, Rozelle);
- Lot 1, DP 109047 (154 - 156 Victoria Road, Rozelle);
- Lot 104, DP 733658 and Lot 102 DP 629133 (697 Darling Street, Rozelle);
- Lot 101 DP 629133 (1 Waterloo Street Rozelle);
- Lot 37 DP 421 (3 Waterloo Street, Rozelle);
- Lot 38 DP 421 (5 Waterloo Street, Rozelle);
- Lot 36 DP 190866 (7 Waterloo Street, Rozelle).

The site is irregular in shape, with frontages to Victoria Road, Waterloo Street and Darling Street. The site has a reasonably significant fall from the southern boundary (Darling Street frontage) to a low point in the northern corner adjacent to the Victoria Road frontage. The site has an overall area of 7334.1m<sup>2</sup>.

The development site currently accommodates the following structures:

- Two-storey painted brick commercial building on lot 1 DP109047 (154 Victoria Road);
- Balmain Leagues Club building and associated car parking facilities over Lot 1, DP 528045, Lot 37 DP 421, Lot 38 DP 421 and Lot 36 DP 190866. The Club building is a two-storey 1963 building which has undergone modern alterations comprising meeting / function rooms, a gaming area, kitchen, café, lounge bar and dining areas and meeting areas and business facilities. The building is irregular in form and design and addresses the Victoria Road frontage. The building comprises approximately 5948m<sup>2</sup> of floor space.
- The car park structure surrounds the two-storey painted brick commercial building at 154 Victoria Road and extends from the Victoria Road frontage to the south-western, Waterloo Street frontage. The carparking facilities include underground and above ground components as well as an 'at grade' section. There are approximately 200 parking spaces on the site;
- Two commercial buildings address the Darling Street frontage. The building at No.699 Darling Street is an early 20th Century, single-storey shop with simple

parapet and white tiled shopfront. The shop is the 'Byers Meat' butchery. The second building, at No.697, is a two storey c1920 shop with a simple parapet and horizontal band of windows in a group of three to the upper floor and two modified timber shopfronts;

- Lot 101 DP 629133 (1 Waterloo Street) accommodates a part 1 and part 2 storey brick commercial/industrial style building with flat roof. This building connects to the rear of the shop at 699 Darling Street and formerly accommodated the 'back of house' operations of Byers Meats; and
- Lots 37 and 38 DP 421 and Lot 36 DP 190866 being 7-3 Waterloo Street accommodate the 'at grade' car park associated with the Balmain Leagues Club.

In total, including the Club component, there is approximately 7,538m<sup>2</sup> of commercial floor area on the site.

In addition to the development site, the proposal involves construction of a pedestrian bridge over Victoria Road and works on the footpath on the north eastern side of Victoria Road, extending slightly into the Rozelle Public School land, legally described as Lot 1 DP 399545 and Lot 1 DP 120187 and known as 663 Darling Street Rozelle.

## **2.2 Adjoining Sites**

Development to the north-west of the site at 168 Victoria Road consists of a single storey commercial building. To the north-west of that building at 170, 172 and 174 Victoria Road are three residential dwellings and beyond that is a Mobil service station at 176-184 Victoria Road.

On the opposite side of Victoria Road to the north-east is the Rozelle Public School. Adjacent to the School, at the intersection of Victoria Road and Wellington Street and to the north of the site, is the prominent Bridge Hotel building. Opposite the site to the east and in close to the corner of Victoria Road and Darling Street is a single storey public toilet block. To the east of the site on the corner of Victoria Road and Darling Street at 665-669 Darling Street is a row of three (3) X two (2) storey shops. Between, and to the east of, these shops (and the subject site) and on the opposite side of Victoria Road at 665A Darling Street, is the Rozelle Neighbourhood Centre.

To the south of the site lies a narrow informal laneway which adjoins the rear of a series of commercial buildings which line Darling Street. The commercial properties include 671 to 695 Darling Street. It is noted that the Balmain Leagues Club has right of way to a section of the laneway which runs along the back of 681 to 695 Darling Street (i.e. Lot 1 DP 1063695), but not over the section of laneway at the rear of 671 to 679 Darling Street.

Waterloo Street lies to the west of the site and is dominated by residential dwellings of various architectural styles and one and two storey scale. At the south-western end of Waterloo Street, at the intersection with Darling Street, there are two X two storey scale commercial/industrial style buildings including the former Post Office building (a Heritage Item) at 707 Darling Street. Opposite these buildings, on the north-eastern side of Waterloo Street is 703 Darling Street which accommodates a

single storey commercial building of painted rendered brick with high parapet, addressing Darling Street. This building has a two storey, residential attachment to the rear, which addresses Waterloo Street. Immediately to the north-west of the site in Waterloo Street, the site adjoins a row of residential dwellings (17-25 Waterloo Street) of one and two storey scale.

### **2.3 Locality Description**

All allotments associated with this application are located within the Rozelle Commercial Neighbourhood of the Leichhardt Development Control Plan 2000.

The allotments known as No. 697 Darling Street and 1 Waterloo Street are located within a Conservation Area, as is the Rozelle Public School site. The school, site is also listed as a heritage item of regional significance. A number of heritage Items are located within a 200m radius of the site, namely:

- No 665A Darling Street - Rozelle Neighbourhood Centre – state significance;
- No. 661 Darling Street – former Westpac Bank building – local significance;
- No 668 Darling Street - St Thomas' Church Group – state significance;
- No. 678 Darling Street and Nos. 128-132 Victoria Road – York buildings – regional significance;
- No. 707 Darling Street – Former Police Station – regional significance;
- Nos. 731-735 Darling Street Rozelle – single storey inter-war period shops – local significance;
- No. 736 Darling Street – single storey commercial building – local significance;
- No. 747 Darling Street – Fire Brigade / Ambulance Training Centre – local significance;
- No. 114 Victoria Road – Mechanics Institute – local significance;
- No. 10 Hancock Street – Former Tramway Workshop – state / local significance;
- Nos. 1-9 Belmore Street – Alice Terrace – local significance;
- No. 22 Belmore Street – Corner Building – local significance; and
- Nos. 4-12 Redlion Street – Mary Terrace – local significance.

## **3. PROPERTY HISTORY**

### **13 December 2005**

At the Ordinary Council meeting held on 13 December 2005 Council considered a



report for a master plan on the Balmain Leagues Club site. The master plan was lodged with Council on 2 November 2005. At this meeting Council resolved:

*That Council:*

- 1) Prepare briefs and engage independent persons to review urban design issues associated with the proposal and to review traffic and economic issues in conjunction with the draft proposal for the former Carrier Air Conditioning site and wider Terry/Wellington Street Industrial precinct.*
- 2) Advise Multiplex Developments Pty Ltd that Council requires the release of currently confidential information prepared by it for the Terry/Wellington Street precinct to enable the carrying out of the reviews in item 1 by 3 January 2006 failing which the reviews will be undertaken on the basis of reasonable land use and density scenarios on the Terry/Wellington Street precinct.*
- 3) Acknowledge receipt of the master plan for the Balmain Leagues Club and require payment by the proponent of rezoning fees in the sum of \$7,200 and advise the applicant that an additional fee of \$120 per hour will apply for work extending beyond that covered by the base fee.*

### **28 February 2006**

Council at the meeting held on 28 February 2006 resolved:

- 1. That council commission an independent traffic study that looks at the area between Rozelle Hospital and Sydney Secondary College (Balmain Campus), including the key routes along Darling Street and Balmain Road to the City West link (north-south) and Victoria Road (east-west) Iron Cove to White Bay, to identify the current network performance and to establish the traffic capacity of the key and other related intersections. The study should be suitable to assess the impacts on performance of the proposals for the Balmain Tigers site and the block containing the former Carrier factory. It should also use current traffic data and make allowances for traffic growth in the vicinity eg: cross city tunnel, other developments and/or mode shifts.*
- 2. The study should examine the traffic and transport performance and capacity at the following key intersections being;*
  - Victoria Road at Darling Street; Wellington Street, Terry Street, Moodie Street*
  - Darling Street at Waterloo Street; Cambridge Street; Beattie Street; National Street*
  - Moodie Street at Waterloo Street; Cambridge Street*
  - Terry Street at Margaret Street; Wellington Street*
  - Intersection of Roberts, Mullens and Victoria Road, White Bay*

3. *That Council prepare a retail strategy for the Leichhardt Municipality. The strategy to include the future use of the Carrier air conditioning site and Balmain Tigers site and how proposals for these sites will impact on the viability of existing retail areas.*

## **22 August 2006**

Council at its meeting held on 22 August 2006 considered a report for the Balmain Leagues Club master plan proposal. At this meeting it was resolved:

*That:*

- 2.1 *The master plan and rezoning submission by Multiplex lodged with Council on 12 April 2006 is not supported in its current form due to the anticipated unacceptable impacts on Victoria Road and the local traffic networks; the extent of impact on existing retail areas; and due to the lack of information and detail to support their submission.*
- 2.2 *Council provide its support, in principle, for the redevelopment of the Tigers master plan site and advise the applicant that Council wishes to discuss with the applicant a revised proposal which comprises a reduced retail and residential component.*
- 2.3 *The proponents, Tigers and Multiplex, be invited to meet with Council's Director of Environment and Community Services and – where necessary – with the Department of Planning and the Roads and Traffic Authority, to discuss the proposals and their impacts.*
- 2.4 *Council undertake further modelling of traffic implications of any revised proposal on behalf of Tigers and that Tigers meet the costs of such additional modelling; and that should Council undertake any further traffic modelling or additional retail assessment for the Tigers and Multiplex master plan proposals that the relevant applicant(s) meet the full costs of such work.*
- 2.5 *Further discussion be held with Tigers in relations to urban design and built form.*
- 2.6 *A further report be brought to the September meeting of Council on the Tigers proposal and that include an assessment of any revised proposal including reference to the criteria prepared for the Department of Planning for their Local Environmental Plan review panel.*
- 2.7 *That the Council invite the Tiger's to present to Council on their present and revised proposals prior to the September Council meeting.*
- 2.8 *That Council's staff also prepare a presentation to Council.*

## **26 September 2006**

Council at the Ordinary Meeting held on 26 September 2006 considered a report that provided an update on a revised master plan received from Balmain Leagues Club. At this meeting Council resolved:

1. *That Council reaffirm it's in principle support for the redevelopment of the lands which are within the master plan submitted by Tigers.*
2. *Traffic consultants and staff meet to decide a reasonable level of traffic capacity for the area covered by the master plan area, as well as the sites which are subject to an application by Multiplex, the Martin Bright Steel site and the remainder of the Balmain peninsula. This to be modelled on the ARUP model at Tigers expense. The modelling is to also include the impact that traffic will have on Cambridge, Oxford, Park and Manning Streets. Multiplex and the owners of Martin Bright Steel site be invited to have input into this discussion.*
3. *Tigers reconsider the amount of parking they are proposing so as to : (a) reduce traffic impacts of the development proposed in their master plan sites; (b) ensure ease of ingress and egress; (c) encourage greater use of public transport, cycling and walking. In reconsidering the amount of parking Tigers also be asked to investigate demand management strategies including the use of a courtesy bus.*
4. *Tigers be asked to reconsider the level of ancillary retail in order to reduce traffic demand and also to reduce potential risk to the viability of mainstreet retail.*
5. *Council officers meet with Tigers architects to explore alternative urban design solutions (including removal of towers) with the view to: (a) reducing overshadowing of properties on Waterloo, Cambridge and Darling Streets; (b) reducing the impact on the skyline of Rozelle; (c) exploring options for activating the rear of Darling Street properties responding to the dominant building typology.*
6. *Council engage consultants with expertise in land economics to assist to determine the level of development that is required to achieve economic viability on all sites that are within the master plan area.*
7. *That Council resolve to prepare a draft Local Environmental Plan and make a submission to the Department of Planning Local Environmental Plan Review Panel to enable ground floor residential uses in the Business Zone, for the sites that are subject of the master plan submitted by Tigers, and change the Floor Space Ratio on the sites that are subject to the Master plan to a maximum overall Floor Space Ratio of 3.6:1, but indicate that there may be some reduction in this overall Floor Space Ratio and some distribution of the Floor Space Ratio across allotments, which form part of the site, prior to the actual exhibition. In the meantime, Council staff continue to assess the proposal and negotiate with Tigers as set out in 2-6 above.*

*In resolving to prepare a draft Local Environmental Plan and to make a submission to the Local Environmental Plan Review Panel, Council is neither endorsing the current master plan as submitted by Tigers nor acknowledging that the final Local Environmental Plan that will be endorsed for exhibition will have an overall Floor Space Ratio of 3.6:1. This Floor Space Ratio of 3.6:1 is included as an indication of a maximum Floor Space Ratio only.*

8. *That staff prepare a draft Local Environmental Plan and draft Development Control Plan amendments for consideration of Council prior to exhibition, if the Department approves the exhibition.*
9. *That Council and Tigers representatives meet as soon as practicable to develop a timeline for the project up to the Development Application stage.*

### **27 March 2007**

Council at its meeting held on 27 March 2007 resolved in relation to a rezoning requested from Balmain Leagues Club:

1. *That Council defer the matter to a briefing for Councillors.*
2. *An Extraordinary Meeting of Council to then be held with the community invited in order to clarify time proposals, the differences between the Local Environmental Plan / Development Control Plan and amended plans proposed by Tigers and to review all consultants reports. That the Extraordinary Meeting of Council be held as soon as possible to enable a decision on exhibition at the Extraordinary Meeting of Council.*
3. *That a letterbox drop be conducted, advising local residents of the Extraordinary Meeting of Council.*

### **8 May 2007**

As a result of the 27 March 2007 resolution, Councillors and Council Officers met with representatives of Balmain Leagues Club to discuss issues relating to overshadowing, the status of the Balmain Rozelle traffic study and the incorporation within the draft planning documents of the proposed laneway between Darling Street properties and the subject site.

Council also consulted with a number of public authorities and the issues raised by these authorities are outlined below:

#### NSW Department of Housing

- Traffic generation having a negative impact on traffic movements
- Potential overshadowing on the Departments Asset; and
- Require the developer to provide a small portion of residential development for affordable housing.

#### NSW Department of Education and Training

Concern regarding the placement of the landing, stairs and elevated ramp within the Rozelle Public School Site, particularly in relation to school security, play space, noise and distractions from persons using the pedestrian bridge over Victoria Road.

#### Roads and Traffic Authority

- Driveways to the loading dock and the car park on Victoria Road to be separated to ensure that ordinary vehicles do not enter the loading dock;
- The implementation of parking restrictions on the south eastern side of Darling Street between Victoria Road and Waterloo Street;
- Ensuring that the pedestrian bridge does not block sight lines to the existing traffic signals at the Victoria Road / Darling Street intersection;
- Ensuring that the proposed development does not prohibit bus priority works being considered by the RTA along Victoria Road;
- The bus stop on Victoria Road in from the development site is to be relocated to the beginning of the deceleration lane; and
- That noise attenuation measures be considered as part of the development due to its proximity to Victoria Road.

A number of these issues have been resolved either through the rezoning process or with the development application. However, a number of issues are not resolved including:

- Traffic generation having a negative impact on local traffic movements;
- Provision of affordable housing; and
- Obtaining landowners consent from the Department of Education and Training for using a portion of the Rozelle Public School site for the pedestrian bridge over Victoria Road.

Council at the meeting held on 8 May 2007 resolved to:

1. *Council defer this Local Environmental Plan / Development Control Plan for further discussion by the Working Party to address the following:*
  - *Floor space ratio and overshadowing*
  - *Traffic impact*
  - *Onsite parking*
  - *Carbon neutrality of the proposal*
  - *Community benefit of the proposal*
  - *Urban design in relation to the conservation area.*
2. *A report be submitted to an Extraordinary Meeting of Council, on a date after 10 July 2007 (after the school holiday period). The General Manager and the Mayor be delegated authority to set the meeting date in consultation with the applicant.*

## **14 August 2007**

As a result of the resolution from the meeting held on 8 May 2007, the applicant presented an amended built form and additional information. This information was assessed by Council and the following issues were raised as a result of the assessment:

### Traffic

Traffic studies and assessments were undertaken by consultants commissioned by both the Balmain Leagues Club and Council and in addition, the Department of Planning advised that the cumulative impacts of major developments proposed in the vicinity must also be addressed as part of any environmental assessment, as the spare traffic capacity along Victoria Road and within the local road network is a key limiting factor that would need to be addressed prior to the local environmental plan amendment being considered by the Department of Planning.

Council officers requested ARUP (independent traffic and transport specialists) to construct a traffic model to determine traffic impacts based on a broad network traffic model in consultation with the applicant.

### Urban Design

The master plan submitted by Balmain Leagues Club in January 2006 included a design proposal including two towers and a proposed floor space ratio of 4.8:1.

An alternative design was submitted to Council on 23 July 2007 on behalf of the Balmain Leagues Club. The amended proposed reduced the height of the towers and increased the floor space by approximately 1000sqm. These plans addressed Council's concerns with regard to overshadowing impact on Waterloo Street and it improved the solar access to the public plaza area within the development. Concern was still raised with the overshadowing impact on the Darling Street properties.

Concern was still raised with the design and visual impact of the proposal and it was recommended that the Draft DCP include a requirement that the applicant develop the design in consultation with a Design Review Panel.

### Planning Agreement

It was recommended that Council enter into negotiations with the Balmain Leagues Club with the aim of formalizing a planning agreement under section 93F of the Environmental Planning and Assessment Act, 1979 to secure a component of affordable housing, public domain improvements and other public benefits and the ongoing provision of community facilities on site.

Council at the meeting held on 14 August 2007 resolved that:

- 2.1 Council remains concerned about the impacts of the rezoning proposal and is yet to determine whether it will support the redevelopment of the Balmain Leagues Club properties as currently proposed. Council is not endorsing the current proposal however resolves that :*

- 2.2 *The draft Leichhardt Local Environmental Plan 2000 (Amendment No. 16) (refer to Attachment A of report) and the draft Leichhardt Development Control Plan (refer to Attachment B of report) amendment be placed on public exhibition for a period of 40 days subject to any recommendation provided by Council's solicitor.*
- 2.3 *Council undertake public consultation during the exhibition period, including the distribution of flyers or leaflets to Balmain and Rozelle residents advising of the proposal and exhibition details; newspaper advertisements (Inner West Courier); information sessions; and exhibitions at Council's Citizen's Service Centre, Balmain Library, Leichhardt Library, Balmain Leagues Club and Council's website.*
- 2.4 *A report be prepared following the public exhibition period advising Council on the matters raised during the exhibition period responses to each matter raised and any proposed modifications made to the draft Local Environmental Plan and Development Control Plan.*
- 2.5 *Balmain Leagues Club be requested to develop a physical scale model of the proposal based on the draft Development Control Plan diagrams, which is to be exhibited at Council's Citizens Services Centre concurrently with the exhibition of the draft Local Environmental Plan and draft Development Control Plan.*
- 2.6 *Prior to the adoption of the Local Environmental Plan that Council will enter into negotiations with the Balmain Tigers under section 93F of the Environmental Planning and Assessment Act 1979 to secure a component of affordable housing, public domain improvements and other community benefits and the ongoing provision of community facilities on the site for the space proposed to be occupied by the Balmain Leagues Club. Within 3 weeks of a Council resolution to exhibit the draft Local Environmental Plan and Development Control Plan the developer agreement to be placed on exhibition for a period of no less than 28 days and that the Local Environmental Plan will not be adopted until the issues have been resolved to the satisfaction of Council.*
- 2.7 *Further sensitivity testing of the traffic model proposed by Balmain Leagues Clubs be carried out by the Balmain Leagues Club during the exhibition period to ascertain the likely traffic impacts that would be expected where network changes proposed in the SKM/MWT modeling were removed or altered.*
- 2.8 *Articulation Zones be included in the building envelope and building language sections of the draft Development Control Plan prior to exhibition.*
- 2.9 *The General Manager write to the Balmain Leagues Club advising them on this decision and that they should not rely on this decision as an indication as to Council's ultimate decision on the Local Environmental Plan.*
- 2.10 *All submitters on the proposal be requested to include their address and whether they are members of the Balmain Leagues Club.*

### **12 March 2008 (consideration of proposed rezoning)**

In response to the resolution from 14 August 2007, the proposal was placed on public exhibition between 26 September 2007 and 5 November 2007. The following issues were raised during the exhibition period:

- Overshadowing;
- Scale and Height;
- Density and Floor Space Ratio;
- Precedence;
- Visual Impact;
- Destruction of Rozelle's Skyline;
- Redevelopment and Revitalisation of the Area;
- Quality of Architectural Design;
- Traffic and Access;
- Public Transport;
- Pedestrian Overpass;
- On-Street and Off-Street Parking;
- Impact on local businesses in the surrounding area;
- Quantum of retail that would be accommodated;
- The composition of the business within the site;
- Inclusion of a supermarket in the development;
- Enhancement of local economy and increased employment;
- Potential of redevelopment to destroy the village atmosphere;
- Additional people attracted to the area;
- Community Benefits;
- Commercial gain at the expense of residents;
- Provision of publicly accessible plaza area;
- Gambling and alcohol concerns;
- Important for the clubs survival;
- Impact on Rozelle Public School;
- Environmentally sustainable development principles;



- Pollution – noise and air;
- Disclosure of pecuniary interest

In response to the issues raised during the exhibition period, a revised proposal was prepared. The following table summarises the differences between the exhibited proposal and the revised proposal:

<b>Development Control / Land Use</b>	<b>Exhibited Proposal</b>	<b>Revised Proposal</b>	<b>Change</b>
FSR	4.8:1	3.9:1	0.91:1
Maximum Height	14 storeys (including 2 storey podium)	12 storeys (including 2 storey podium)	2 storeys
Car Parking	622 spaces	520 spaces	102 spaces
<b>Floor Space</b>			
Residential	18,561sqm	13,794sqm	4,767sqm
Retail	10,785sqm	9,585sqm	1,200sqm
Commercial	1,620sqm	1,620sqm	0sqm
Club	4,250sqm	3,516sqm	734sqm
Total	35,216sqm	28,515sqm	6701sqm

The revised proposal:

- Was based on the range of land uses located within the Norton Plaza Shopping Centre
- Was designed to limit overshadowing
- Adopted the minimum rates for on site car parking in recognition of the sites proximity to existing public transport.

Council at the meeting held on 12 March 2008 resolved:

*That Council prepare a new Draft Local Environmental Plan with a Floor Space Ratio of 3.9:1 based on the revised Draft Local Environmental Plan recommended by the Director and*

- 1. Authorise the General Manager to make minor technical changes based on legal advice to the Draft Local Environmental Plan and Draft Development Control Plan.*
- 2. Authorise the General Manager to prepare and send a Section 64 report to the Department of Planning requesting a new Section 65 Certificate.*
- 3. On receipt of a new Section 65 Certificate exhibit the attached Draft Local Environmental Plan and Draft Development Control Plan.*

4. *Council hold a community briefing on the new Draft Local Environmental Plan and Draft Development Control Plan.*
5. *Report back on the exhibition to an Extraordinary Meeting of Council in June 2008.*
6. *That page 7 of the Draft Development Control Plan under heading controls dot point 1 “no more than 20% of the residential units to be one or three or more bedrooms” be amended to be consistent with Council’s Local Environmental Plan as it relates to Part 4 Clause 19(6) Diverse Housing and Clause 19(7) Adaptable Housing.*

### **12 March 2008 (Consideration of Voluntary Planning Agreement)**

Council at the meeting held on 12 March 2008 also considered a reported regarding a Voluntary Planning Agreement for the proposed Balmain Leagues Club redevelopment. The Voluntary Planning Agreement offered by the Balmain Leagues Club Limited and based on a floor space ratio of 3.9:1, comprised:

#### Monetary contributions

- Roads, Footpaths, Traffic Facilities – payment of \$250,000 in addition to requirements under any condition of development consent.
- Community Grants - payment to Council of an annual amount of \$50,000 for 10 years for distribution as community grants.

#### Other Commitments

- Construction of a pedestrian bridge across Victoria Road;
- Construction of a pedestrian link (ie the proposed retail arcade) from the proposed development to the Darling Street shop frontage.
- Provision of a community shuttle bus to carry passengers to and from the development.
- Provision of a free home delivery service for the customers of all retailers (delivery within a 5km radius of the centre).
- Provision of bike facilities for customers, residents and employees.
- Provision of a minimum of two marked car spaces to facilitate the provision of a community car sharing scheme.
- Provision of a designated area, in an easily accessible place within the development, for taxis to pick up and drop off.
- Implementation of the NSW Department of Commerce *Aboriginal Participation in Construction Guidelines* (as at 1 January 2007) in all contracts for the construction of the development.

- Payment in lieu of s.94 contributions - the developer has offered to make an equivalent monetary contribution to Council in accordance with relevant s.94 plans and in lieu of the s.94 contribution otherwise payable.

Based on an increase in the permissible Floor Space Ratio from 1.5:1 to 4.8:1, a Monetary Contribution of \$6,000,000 was also offered by the Balmain leagues Club Limited in addition to the above, for wider community benefits such as affordable housing, community facilities and open space. Note that this monetary contribution was not part of the final VPA as the LEP amendment was adopted at 3.9:1.

Council at this meeting resolved to:

*Council to delegate to the General Manager to finalise negotiations , prepare and exhibit a Voluntary Planning Agreement for a minimum of 28 days in accordance with the offer outlined in this report, with the deletion of the Payment in lieu of Section 94 Contributions.*

*There be discussion and negotiations of a facility and/or worker for youth in the area to be provided in the development or in the nearby facility.*

*Negotiations to continue for the inclusion of a component of affordable housing including debt/equity models.*

### **3 June 2008**

Council considered two matters at its meeting held on 3 June 2008, being the Voluntary Planning Agreement and the Local Environmental Plan.

#### Voluntary Planning Agreement

Council at its meeting held on 3 June 2008 considered a report concerning the submissions received during the exhibition of the Voluntary Planning Agreement. The VPA was exhibited based on the benefits offered at a floor space ratio of 3.9:1

There were seven (7) submissions received and most related to items not included in the Voluntary Planning Agreement or requested that the contributions already in the Agreement be increased.

A submission was received from the Department of Education and Training. This submission and the applicant's response is discussed in the following:

*The Department of Education and Training is concerned about the inclusion of the pedestrian bridge partly on land owned by the Department of Education and Training. The Department of Education and Training is concerned about the encroachment, the loss of valuable land area, the potential removals of mature trees and the apparent disregard of the site's ownership. The Department of Education and Training state that they attempted to engage with the Applicant to discuss the issue and seek detailed plans but has yet to be provided with a response. Department of Education and Training request Council facilitates resolution of this issue.*

The response provided in the report is as follows:

*The Voluntary Planning Agreement assumes the bridge can be lawfully constructed and requires the Applicant to do all things necessary to obtain all relevant approvals. If Department of Education and Training land was required, then the applicant would need to reach agreement with the Department prior to lodging the Development Application. Nevertheless, given the significance of the criticism the applicant was asked to address the Department concerns. The applicant has advised:*

- "1. The Department of Education and Training assumes the bridge is proposed to be erected on land owned by the Department of Education and Training. This is not the case. The bridge can be erected within the footpath space and RTA has provided in principle agreement for the bridge to be erected.*
- 2. The Department of Education and Training states that it has 'attempted to engage with the proponents to discuss this issue and seek detailed plans but has yet to be provided with a response.' Tigers has no record of any correspondence from Department of Education and Training on this issue. In terms of engagement however, Tigers conducted a presentation regarding the pedestrian bridge to the Rozelle Public School Principal and P&C over 2 years ago. The concept of the bridge was very well received by the P&C, although it was appreciated by all concerned that this was more an issue for the development application phase of the project. Tigers have also had an ongoing dialogue with the Principal of the school, and have issued several invitations to various presentations conducted by Tigers regarding the proposal.*
- 3. It is noted that the Department of Education and Training recognize that the bridge issue is primarily an issue for the Development Application Phase of the project.*

*Whilst Tigers are happy to meet with any stakeholder regarding the proposal, the issues raised by the Department of Education and Training can adequately be addressed at the DA stage of the project."*

As discussed later in this report, the issue of land owners consent from Rozelle Public School remains unresolved with the Development Application.

Council at this meeting resolved that *Council enter into the Planning Agreement with Balmain Leagues Club Limited as exhibited.*

Details of the final VPA are shown in section 4.2 of this report.

#### Local Environmental Plan

Council at its meeting held on 3 June 2008 also considered a report concerning the results of the exhibition period for the revised rezoning proposal. The exhibition period was between 9 April 2008 and 7 May 2008. The following issues were raised in the submissions:

- Traffic and parking;
- Impact to local economy;

- Density, building height and scale;
- Precedence;
- Overshadowing;
- Access via Waterloo Street;
- Inconsistent with urban design, destruction of Rozelle skyline and village atmosphere;
- Access to exhibition material;
- Acknowledgement of pecuniary interest;
- Inclusion of affordable housing;
- Inclusion of ecologically sustainable development initiatives;
- Noise and air pollution;
- Inconsistent with heritage area;
- Composition of business in development;
- Pedestrian safety;
- Social impacts – gaming and alcohol;
- Reduction is still not enough;
- Existing infrastructure is inadequate;
- Too many additional people – overcrowding;
- Commercial gain at expense to residents;
- Residential component;
- Cumulative impact;
- Revitalisation;
- Community benefits;
- Improvements to public domain;
- Support for mixed use development;
- Pedestrian overpass;
- Impact to local economy and retail component;

- Make a decision quickly;
- Development along transport corridors

Council at this meeting resolved:

*That Council:*

1. *Request the Minister for Planning to make the Draft Local Environmental Plan – Amendment 16 to Leichhardt Local Environmental Plan 2000 – as exhibited and as attached at Attachment A of the report.*
2. *Delegate to the General manager the preparation of a Section 68 Report, in support of the above Resolution, and the authority to forward this report to the Department of Planning.*
3. *Adopt the draft Development Control Plan subject to the amendments recommended in the officer's report as attached at Attachment B and with the following changes:*

*A. That:*

- i. *the proposed control for Residential parking under the Heading D1.12 Car Parking, Table 12.1 Pages D18 and D19, be amended to read as following:*

*Residential*

*"The total number of car spaces for residents and/or visitors to dwelling shall equate to the minimum in DCP 2000 – 0.6 spaces per 1 bedroom, 0.9 spaces per 2 bedroom and 1.1 spaces per 3 or more bedrooms."*

- ii. *the proposed control under the Heading D1.12 Car Parking, Pages D18 and 19 be amended to read as follows:*

*"That at the time any Development Application lodged, any:-*

- a. *further reduction in on site parking, or*
- b. *restriction of traffic ingress and egress outside of peak hours,*  
*or*
- c. *compensation for loss of on-street parking from Darling Street*

*be addressed as part of the Traffic Management Plan.*

- B. That the existing control under the Heading D1.6 Land Use, Page D8, dot point 5, sub point 7 be amended to read as follows:*

*"A minimum of six (change from two) marked car spaces for the exclusive use of car share scheme."*

- C That a new control be inserted under the Heading D1.7 Building Language, page D10, new dot point 3;*

*"The non residential component of the building shall have an Australian Building Greenhouse Rating of a minimum of 4 stars."*

**29 August 2008**

The Local Environmental Plan was gazetted.

#### **4. ASSESSMENT**

##### **4.1 Land Owners Consent**

Clause 78A(1) of the Environmental Planning and Assessment Act 1979 reads:

*“(1) A [person](#) may, subject to the [regulations](#), apply to a [consent authority](#) for consent to carry out [development](#).”*

Clause 78(9) of the Act reads:

*“(9) The [regulations](#) may specify other things that are required to be submitted with a [development application](#).”*

Clause 50(1) of the Regulation reads as follows:

*“(1) A [development application](#):*

- (a) must contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1...”*

Part 1, Clause 1(i) of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 reads as follows:

*“(i) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the [application](#).”*

The proposal involves the construction of a pedestrian bridge that forms part of the Voluntary Planning Agreement associated with the development (refer below), partly encroaching on the Rozelle Public School site at 663 Darling Street, Rozelle. The bridge partly encroaches the adjoining school site in order to meet specific design requirements and construction specifications provided by the Roads and Traffic Authority bridge design department.

The owner of No. 663 Darling Street is the Department of Education and Training. The consent of Department of Education and Training has not been obtained, despite Council requests that such consent be provided. On this basis, the application currently before Council is not a valid application and does not meet the requirements of Clause 50(1) of the Regulations. On this basis alone, the Joint Regional Planning Panel cannot issue consent.



## **4.2 Voluntary Planning Agreement**

### General information regarding Voluntary Planning Agreements

A Voluntary Planning Agreement is a voluntary agreement entered into between a developer and a planning authority. Under the relevant provisions of the Environmental Planning and Assessment Act 1979, in a Voluntary Planning Agreement, a developer may agree to make development contributions toward a public purpose. The development contributions may comprise monetary contributions, the dedication of land free of cost or material public benefits.

While the objectives of planning agreements are dictated by the circumstances of individual cases, these objectives may include meeting the demands created by development for new public infrastructure, amenities and services; prescribing the nature of development to achieve specific planning objectives; and securing off-site planning benefits for the wider community so that development delivers a net community benefit.

Once a planning agreement has been made, it is legally binding and, if registered on the certificate of title (which it is), binds future owners and so is enforceable against subsequent purchasers to whom all or part of the land is on-sold by the developer. Acknowledging the voluntary nature of planning agreements, the developer cannot appeal to the Land and Environment Court against the terms of a planning agreement.

### Assessment of the Proposal Against the Voluntary Planning Agreement

The Voluntary Planning Agreement required both Monetary Contributions and Material Public Benefit Contributions.

Bank guarantees have been provided by the Developer to secure the Monetary Contributions as required.

The Material Public Benefit Contributions are required to be included by the Developer in any Development Application lodged and comply with any condition of development consent requiring provision of the said material public benefits.

The Updated Statement of Environmental Effects for the DA, dated 23 March 2010 by SJB Planning Pty Ltd states the following:

#### *“6.6 Planning agreements under the EP&A Act 1979*

*The site is subject to a planning agreement made in accordance with s93 of the EP & A Act.*

*Schedule 3 of the agreement identifies the Development Contributions Schedule and breaks them into two components being the Monetary Contributions and the Material Public Benefit Contributions to be provided by the Developer.*

*It is noted that there are 8 separate matters listed as Material Public Benefit. The amended development application involves the construction of a pedestrian bridge over Victoria Road which satisfies one of the 8 matters.*

*The amended development also includes a pedestrian link through the site to Darling Street which satisfies a second matter in the agreement.*

*Other matters such as a community bus are dealt with in the amended proposal and those matters that are not directly dealt with can be addressed by way of conditions of consent and this is acknowledged in the agreement as a method of delivering the Material Public Benefit Contributions."*

Some of the Material Public Benefit Contributions have been included in the Development Application, and some have not. Should the Joint Regional Planning Panel seek to approve the application, they should require a "Deferred Commencement" Consent with conditions to secure the Material Public Benefit Contributions. The compliance of the application with the Voluntary Planning Agreement and proposed conditions to secure the Voluntary Planning Agreement obligations are set out below. The information in the following tables shows the requirements of the VPA, with an assessment of compliance and required contributions.

<b>PART A – Monetary Contributions</b>				
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Development Contribution</b>	<b>Intended Use/ Purpose</b>	<b>Date the Development Contribution is payable</b>	<b>Amount of Bank Guarantee</b>	<b>Date the Bank Guarantee must be lodged</b>
<p>Payment to Council of \$250,000 (exclusive of GST) for upgrading of roads, footpaths and traffic facilities in the vicinity of the proposed development, including the western side of Darling Street between Victoria Road and Waterloo Street.</p> <p>This amount is in addition to any condition of development consent requiring the Applicant to undertake upgrading works reasonably necessary for the development. Council must undertake these works within 4 years from the date of payment or any agreed extension of such period.</p>	Upgrading of roads, footpaths and traffic facilities in the vicinity of the proposed development	Prior to issue of any construction certificate.	\$250,000.00	Prior to lodgement of any development application

<b>PART A – Monetary Contributions</b>				
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Development Contribution</b>	<b>Intended Use/ Purpose</b>	<b>Date the Development Contribution is payable</b>	<b>Amount of Bank Guarantee</b>	<b>Date the Bank Guarantee must be lodged</b>
Payment to Council of an annual amount of \$50,000 (exclusive of GST) each year for 10 years for community grants. This funding is over and above obligations under the Leagues Club's Community Development & Support Expenditure (CDSE). A committee will be established consisting of equal representation from Council and Tigers to decide on the distribution of the grants. In the event of a dispute, the final decision will be made by a full meeting of Council.	Grants to community groups.	Payment on 1 July each year to commence after the issue of an occupation certificate for the retail use.	\$500,000.00	Prior to lodgement of any development application

Bank Guarantees for \$750,000 have been provided to Council.

**PART B – Material Public Benefit Contributions to be Provided by the Developer**

The developer shall include in any development application lodged in respect of the land (or part thereof) the material public benefits set out in Part B of Schedule 3 of this Deed and shall, provided any relevant conditions of development consent are consistent with the terms of this deed:

- Comply with any condition of development consent requiring provision of the said material public benefits; and
- Not seek to amend such conditions of development consent; and
- Not appeal to the Land and Environment Court; and
- Not take any other action to avoid complying with such conditions.

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
Construction of a pedestrian link (ie the proposed retail arcade) from the Proposed Development to the Darling Street shop frontage as shown in DDCP.	To ensure adequate pedestrian movement both within and to and from the site.	Will be completed prior to the release of any Occupation Certificate for the development	N/A	N/A

The pedestrian link to Darling Street is included in the application (retail arcade). No interim or final occupation certificate shall be released for any stage of the development until such time as the Pedestrian link to Darling Street is fully constructed and operational, and this could be conditioned as part of any consent.

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
Construction of a pedestrian bridge across Victoria Road as shown in the Draft Development Control Plan (DDCP). The developer is required to undertake all works and do all things necessary, including obtaining all approvals, and the acquisition of land or payment of other compensation, at its cost, to provide the bridge.	To ensure adequate pedestrian movement both within and to and from the site.	Will be completed prior to the release of any Occupation Certificate for the development	N/A	N/A

The pedestrian bridge is included in the application, although as detailed previously, owner's consent has not been obtained for the bridge construction over the Rozelle Public School site. During the Rezoning process, the bridge was identified as being integral to the development in relation to traffic, pedestrian movement, access and safety issues. The issue of lack of owners consent can not be addressed via condition.

However, if owner's consent is obtained a condition of consent, as follows, is required:

"No Interim or final Occupation Certificate shall be released for any stage of the development until such time as the pedestrian bridge across Victoria road is fully constructed and operational".

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
A community shuttle bus will be provided and operated by the Developer to carry passengers to and from the development. The bus will operate as a minimum during the opening hours of the retail component of the development, will be at least a 25 seater, wheelchair accessible (ie with a lift), and will service all suburbs of the Leichhardt LGA. This shuttle bus service will be provided in perpetuity, unless written authorisation to cease the service is provided by Council. The Developer and all future owners of the proposed development will be jointly and severally obliged to provide this bus service. The service will not charge fares or otherwise impose a charge on passengers for use for the first two years of operation. After that period the fares will be reviewed and the introduction of any fares must be approved by Council.	To reduce traffic generation by ensuring adequate transportation to and from site for the public, employees and residents.	Service is to be operational prior to commencement of trading of any retail development.	N/A	N/A

The "Update Traffic Management Plan" dated 19 March 2010 by Halcrow MWT includes a proposed Route Map and Bus Timetable. A Bus Waiting area and a Bus and Taxi Pickup/layover area are shown close to the escalators on Basement Level B3 (which is the level of car parking closest to the shops).

The information provided to date does not allow Council to assess the feasibility of the service.

It is noted that the Voluntary Planning Agreement required the bus service to run as a minimum during the opening hours of the retail component of the development.

The Development Application has requested 24 hour trading for the supermarket and mini major and the fresh food area. Therefore, if these hours were approved, the bus service should theoretically operate 24 hours. However, it is proposed that the operating hours for the bus service be approved by Council once a Community Bus Service Plan of Management has been submitted to Council.

Should the application be approved, the above could be addressed via “Deferred Commencement” conditions requiring the following:

*A Community Bus Service Plan of Management:*

- *must be prepared by the applicant and set out full details of the operations for the community bus service;*
- *must be submitted to and approved by Council (at a meeting of Council with full delegation); and*
- *may only be changed if approved by Council (at a meeting of Council with full delegation).*

The Community Bus Service Plan of Management will include the following, as a minimum:

- *A community bus will be provided and operated in perpetuity, with all journeys provided for free;*
- *The bus will operate as a minimum during the opening hours of the retail component of the development, unless otherwise approved by Council;*
- *The bus will be at least a 25 seater and wheelchair accessible (ie with a lift);*
- *The bus will service all suburbs of the Leichhardt LGA (including Annandale) and will also include a stop at the Leichhardt Park Aquatic Centre;*
- *A route map and timetable will be provided and approved by Council;*
- *Provision of an assessment of the proposed route to show that the timetables are realistic to ensure the service will run at or near the timetable;*
- *Each stop will be for both pick-up and set down, with travel between stops permitted;*
- *Provision of precise details of the stop locations, on large scale map. Specify whether existing bus stops will be used, and if so obtain formal approval from Sydney Buses. If existing bus stops are not going to be used, specify any proposed road/kerb treatments, seating and shelter, to be provided at each specific location, at the applicant's cost;*
- *Provide seating within the Development adjacent to the taxi stand/community bus stop area; and*
- *Provide a guarantee of continuity of service and details of back-up plans for when the bus is out of service.*

Further, the following conditions of consent should be included:

- *A Community Bus Service shall be provided in accordance with an approved Plan of Management;*
- *A Bus Waiting Area and a Bus and Taxi Pickup/Layover area shall be provided on Basement Level B3 close to the escalators; and*
- *No interim or final occupation certificate shall be released for any retail area of the development until such time as the community bus service is fully operational.*

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
Provide a designated area, in an easily accessible place within the development, for taxis to pick up and drop off.	To reduce traffic generation by ensuring adequate transportation to and from site for the public, employees and residents.	Will be completed prior to the release of any Occupation Certificate for the development	N/A	N/A

A taxi pick up area is shown on Basement Level B3 (which is the level of car parking closest to the shops) close to the escalators.

Should the application be approved the following conditions of consent should be included:

- *A taxi pick up area shall be provided on Basement Level B3 close to the escalators; and*
- *No interim or final occupation certificate shall be released for any stage of the development until such time as the taxi pick up area is fully constructed and operational.*



Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
The developer will provide a free home delivery service for the customers of all retailers (delivery within a 5km radius of the centre). This service will be provided in perpetuity, unless written authorisation to cease the service is provided by formal resolution of Council. The Developer and all future owners of the Proposed Development will be jointly and severally obliged to provide this service.	To reduce traffic generation and provide a public service to retail customers.	Service is to be operational prior to commencement of trading of any retail development	N/A	N/A

The "Update Traffic Management Plan" dated 19 March 2010 by Halcrow MWT does not appear to provide any details of the free home delivery service. Further information about this home delivery service has been requested by Council.

Should the application be approved, the issue could be addressed via "Deferred Commencement" conditions requiring the following:

*A Home Delivery Service Plan of Management:*

- *must be prepared by the applicant and set out full details of the operations for the home delivery service;*
- *must be submitted to and approved by Council (at a meeting of Council with full delegation); and*
- *may only be changed if approved by Council (at a meeting of Council with full delegation).*

*The Home Delivery Service Plan of Management will include the following, as a minimum:*

- *must specify that a free home delivery service will be provided for customers of all retailers, with delivery within a 5km radius*
- *must specify that there will be at least 3 deliveries a day and that cold and frozen foods will be delivered*
- *must specify:*

- *the proposed hours of operation and delivery times;*
- *how cold and frozen foods will be managed, including appropriate storage in cool rooms and freezers, and management during transportation;*
- *how goods will be delivered to the loading dock and stored there;*
- *the type of delivery vehicle to be used; and*
- *how the service will be promoted and advertised.*

Further, the following conditions of consent should also be included:

- *A Home Delivery Service shall be provided in accordance with an approved Plan of Management.*
- *No interim or final occupation certificate shall be released for any retail area of the development until such time as the Home Delivery Service is fully operational.*

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
The developer will implement the NSW Department of Commerce <i>Aboriginal Participation in Construction Guidelines</i> (as at 1 January 2007) in all contracts for the construction of the development.	To endeavour to provide employment to Aborigines and Torres Strait Islanders.	Periods of construction of the Proposed Development	N/A	N/A

Council has previously requested that a statement committing to implement this program be included in the Development Application. However it has not been included in the Development Application to date.

Should the application be approved, the above could be addressed via “Deferred Commencement” conditions. In this regard, an Aboriginal Participation Implementation Plan would be required to be submitted to and approved by Council identifying how the NSW Department of Commerce *Aboriginal Participation in Construction Guidelines* (as at 1 January 2007) will be implemented in all contracts for the construction of the development.

The Implementation Plan will include as a minimum:

### Management Statement of Support for Aboriginal Participation

*This is a statement from the applicant's senior management that it is genuinely committed to creating and extending opportunities for Aboriginal people and enterprises through undertaking the contract, and is capable of implementing its proposed Aboriginal Participation Plan. It commits the organisation to incorporating Aboriginal participation as a core function in all project management processes, and ensuring that its dealings with Aboriginal people consistently take place in a culturally sensitive manner. Ongoing commitment and leadership from management is vital to ensure the effectiveness and success of an Aboriginal Participation Plan.*

### Statement of Opportunities for Aboriginal Participation

*This document identifies the training and employment opportunities the applicant will make available to Aboriginal workers and enterprises at different stages of the project. It should specify the stages of the contract in which Aboriginal participation will be sought, the trades in which apprenticeships, training and/or employment will be provided, how many positions have been allocated, and details of any training, mentoring and professional development requirements for participants.*

### Aboriginal Participation Plan

*This document explains how the applicant will deliver the Aboriginal participation objectives it has outlined in the Statement of Opportunities. The Plan should detail:*

- *the roles and key responsibilities of Aboriginal personnel, enterprises and training providers across the life of the project;*
- *how the applicant will implement, monitor and review Aboriginal participation in the project, including key milestones and measurable performance targets;*
- *who in management will be responsible for implementation, monitoring and reviewing the Plan, and taking corrective actions if required;*
- *how the applicant will communicate with workers, unions, service providers and the Aboriginal community about Aboriginal participation issues (including cultural awareness training for the relevant personnel);*
- *the methods the applicant will use to assess the capacity of subcontractors and other service providers to fulfil the stated Aboriginal participation commitments; and*
- *key performance indicators to be used to monitor and review Aboriginal participation.*
- *Guidelines to assist the applicant can be found at <http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Construction/Policies-and-Guidelines.aspx>*

Further, the following condition of consent is required:

“All contracts for the construction of the development shall comply with the approved Aboriginal Participation Implementation Plan”.

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
<p>The developer will provide the following Bike facilities as a minimum. This clause may be superseded by a DA condition that imposes more onerous requirements.</p> <p>Shoppers: Provide 30 bike spaces, a mix of covered and uncovered, at grade and accessible from the plaza to be spread over strategic entry points at entry to plaza. 6 Lockers are to be co-located with the bike spaces.</p> <p>Employees: Provide 25 spaces within a secure part of the basement level, co-located with 25 lockers and 3 unisex shower/toilet/change rooms (individual rooms).</p> <p>Residents: Provide 1 secure space per 5 units, which may be broken up over basement levels, plus 5 spaces for residential visitors.</p>	To reduce vehicle traffic generation by ensuring adequate bicycle facilities are provided for the public, employees and residents.	Will be completed prior to the release of any Occupation Certificate for the development	N/A	N/A

The following is provided in response:

Shoppers: On the plaza level sixteen (16) spaces are provided undercover where the retail link to Darling Street meets the plaza. There are also fourteen (14) additional spaces in an enclosed room on the Plaza level, with four (4) showers and six (6) bike lockers. However, internal spaces are not required for shoppers as they need to be highly visible.

Employees: Ten (10) staff spaces and lockers are provided on level B1 (the level with supermarket and mini major). There are an additional sixteen (16) spaces on Basement Level B3 along with three (3) showers.

The separate locations are considered to be satisfactory, however the shower facilities have a common change area for males and females and no toilets, which is contrary to the requirements of the Voluntary Planning Agreement.

Residents: There are two (2) residential bike storage areas on Basement 6, comprising thirty-four (34) spaces in total. The Voluntary Planning Agreement requires that the spaces for residents should be secure. It is not clear from the plans if these spaces are located in a lockable space. The larger bike storage area with twenty-two (22) spaces should be of lock-up cage style, with facilities to lock the bikes to fixed racks inside the cage. The smaller bike storage area of twelve (12) spaces may be open style but must facilitate locking of bikes to fixed racks.

Should approval of the application be contemplated, the above could be addressed via a “Deferred Commencement” condition. The Deferred Commencement Condition of Development Consent required would read as follows:

A Bike Facilities Plan of Management:

- *must be prepared by the applicant and set out full details of the provision and operation of the Bike Facilities.*
- *must be submitted to and approved by Council (at a meeting of Council with full delegation).*
- *may only be changed if approved by Council (at a meeting of Council with full delegation).*
- *Amended plans must be submitted to and approved by Council in accordance with the Bike Facilities Plan of Management. The Bike Facilities Plan of Management will include the following, as a minimum:*

*Bike Spaces for Shoppers*

- *Provision of 30 spaces for shoppers which should be broken into a minimum of 3 locations at major approaches/egress to the plaza, either all undercover or a combination of covered and uncovered spaces;*
- *The spaces should be high visibility and not hidden; and*
- *12 lockers should be provided either at the location with the most bike spaces, with signage at the other bike locations informing where the lockers are, or alternatively split the lockers amongst the bike locations, with 4 lockers at each.*

*Bike Spaces for Employees:*

- *26 secure spaces for employees, co-located with 3 individual unisex change rooms that include both a shower and a toilet.*

*Bike Spaces for Residents:*

- *34 spaces for residents with fixed racks, including 22 spaces in a lock-up cage.*

*Management:*

- *Arrangements for security including access for residents and employees;*
- *Arrangements for cleaning of secure bike areas and change room facilities including frequency and standards*

Further, the following conditions of consent should also be included:

- *Bike Facilities shall be provided in accordance with an approved Plan of Management; and*
- *No interim or final occupation certificate shall be released for any stage of the development until such time as all bike facilities are fully constructed and operational.*

Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution for material Public Benefit	Intended Use/purpose	Date the Contribution is to be provided by the Developer	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
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.	To reduce vehicle traffic generation	The car spaces will be available for such use prior to the release of any Occupation Certificate for the development		

Six (6) spaces for car share are shown on Basement Level B3 (which is the level of car parking closest to the shops). Should approval of the application be contemplated, conditions of consent should be imposed requiring that:

- *Six (6) car parking spaces shall be provided on Basement Level B3 for the exclusive use of a car share scheme; and*
- *No interim or final occupation certificate shall be released for any stage of the development until such time as the six (6) car share parking spaces are fully constructed and marked for exclusive use of the car share scheme.*

## Summary

The Voluntary Planning Agreement relating to this site imposes various obligations that must be included in the Development Application. Some of the Material Public Benefit Contributions have been included in the Development Application, and some have not. Ideally, compliance with the Voluntary Planning Agreement should be required prior to a consent being granted.

If the Joint Regional Planning Panel were of the mind to approve the application, a 'Deferred Commencement' Consent approval is deemed to be necessary to ensure that the requirements of the Voluntary Planning Agreement are met.

However, owner's consent for the pedestrian bridge has not been obtained from the Department of Education and Training to utilise land for part of the bridge, and this issue can not be resolved via condition of consent.

### **4.3 Environmental Planning Instruments**

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- Leichhardt Local Environmental Plan 2000;
- State Environmental Planning Policy No. 1 – Development Standards;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 64 – Advertising and Signage;
- State Environmental Planning Policy No. 65 – Design Quality Residential Flat Building Development;
- State Environmental Planning Policy BASIX 2004;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy Major Projects 2005;
- State Environmental Planning Policy Infrastructure 2007.

The assessment of the proposal against the above Environmental Planning Instruments is as follows.

#### State Environmental Planning Policy No. 55 - Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 reads as follows:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The applicant has submitted a Phase 1 Preliminary Site Assessment and Remediation Action Plan, prepared by AECOM, and dated 2 September 2009 and 18 December 2009 respectively.

The Preliminary Assessment concludes that remediation is required and the Remediation Action Plan concludes that full implementation of the Remediation Action Plan will result in the site being suitable for the proposed use. Council's Environmental Health Section raises no objections, subject to the preparation of a validation report and the right to request a Site Audit Statement. The requirements of Council's Environmental Health Section and compliance with State Environmental Planning Policy No. 55 can be addressed via conditions of consent in the event of an approval being contemplated.

#### State Environmental Planning Policy No. 64 – Advertising and Signage

Pursuant to Clause 3(1)(a) of State Environmental Planning Policy No. 64:

- (1) *This Policy aims:*
- (a) *to ensure that signage (including advertising):*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of high quality design and finish, and*
  - (b) *to regulate signage (but not content) under Part 4 of [the Act](#), and*
  - (c) *to provide time-limited consents for the display of certain advertisements, and*
  - (d) *to regulate the display of advertisements in transport corridors, and*
  - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

Council requested details regarding proposed signage associated with the development. Despite these requests and concerns, the application has not identified provision of inevitable signage, other than an indicative location of signage in four "zones" along the Victoria Road frontage, these signage zones varying in size between approximately 4.9m and 1.5m (smallest sign) and 9.1m X 2.1m (largest sign) facing Victoria Road.

The proposed signage "zones" as identified by the applicant face onto Victoria Road directly, and do not have good visibility for motorists approaching along Victoria Road from either direction, and have poor or no visibility from Darling Street. The signage appears to lack integration into the design.

At completion, the development will include a club, a full line supermarket, a fresh food mini-major, a generic mini-major, sixteen (16) specialty retail / restaurant tenancies, and five (5) commercial tenancies. The likely signage demands for these future tenants would include multiple locations with good distance visibility.

This raises the possibility of future signage demands either obscuring glazed areas and building detail, or seeking placement on roof areas. While the applicant has advised that no objection would be raised to having items relating to signage being addressed by conditions of consent, Council does not consider it unreasonable that



appropriate provision should be incorporated into the building design from an early stage for signage demand. Council would prefer to avoid a scenario whereby future tenants demand inappropriate signage locations in order to maximise exposure to passing traffic because suitable locations were not incorporated into the original design of the buildings.

Given the above, any future signage would be subject to future Development Applications, except where otherwise exempt. Any signage requirements would need to be carefully balanced to address Council's planning controls and to ensure that the design integrity of the building is not compromised.

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

Clause 30(1) of State Environmental Planning Policy No. 65 reads as follows:

*(1) After receipt of a development application for consent to carry out residential flat development and before it determines the application, the consent authority is to obtain the advice of the relevant design review panel (if any) concerning the design quality of the residential flat development.*

#### *Design Review Panel*

The Design Review Panel comprising Peter Smith, Kerry Clare and Phillip Thalys was established in accordance with Development Control Plan 2000. The Panel operated under the Terms of Reference set out by Council, dated 2 June 2009.

The Panel has met with the applicant, their architects and landscape architects, and Council Officers on many occasions, both prior to, and after the lodgement of the application. At the most recent Design Review Panel meeting at Council on the 4th June 2010, the applicant tabled additional design work and drawings in the aim of addressing a number of deficiencies that had been identified.

The Panel has reviewed the amended Development Application documents forwarded to Panel Members on 11 June 2010 and provided final comments on 18th June 2010. A summary of these issues and Council's response follow:

#### Public Domain Interface

##### *Victoria Road frontage*

The Design Review Panel has confirmed that the Victoria Road elevation has improved since pre-Development Application discussions, resulting in improved shelter / shade and weather protection along this frontage, more active frontages and more acceptable access between Building C and the square, all changes which the Panel and Council support.

However, the Panel remain concerned regarding the lack of dedication to Council of a 3m width strip of land along the width of the Victoria Road frontage. In this regard, the Panel have consistently recommended the provision of a 3m strip of land extending the full width of the Victoria Road frontage, preferably clear of bus shelters and the like, with the footpath dedicated in perpetuity to Council, and that the

basement levels at all levels be setback 3m to the same alignment. Aims of the dedication include allowing deep soil planting for trees, facilitating the long-term resolution of services, and avoiding obvious on-going 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 Panel recommends the dedication to extend to future development sites on either side of the site.

Comment: Council concurs with the recommendations of the Design Review Panel, and the positive impacts these changes would contribute to this important Sydney main road. The above recommended changes would involve the reduction of all basements, and a loss of some car parking, however, as noted below, there is an over provision of parking in the proposal. Therefore, such changes could be accommodated on the site, however, not without a fundamental redesign of the proposal which could not be conditioned in the event of an approval being contemplated. The Panel do not support the proposal without this dedication being provided and the basements being setback from Victoria Road as noted above.

#### *Footpath Crossing at Vehicular Entrance*

The crossing should be designed to provide priority to pedestrians, by minimising the crossing width and providing a more generous transition to the neighbouring property, and providing deep soil under the island tree.

#### *Architectural Scale and Rhythm*

These can be improved by responding to the requirements of sunshading for the large east facing windows. While sunshading has been indicated to some of the windows to Victoria Road, however, some still have no treatment - the sunshading should be consistent.

#### *Pedestrian Bridge*

The proposed pedestrian bridge should connect clearly to public space rather than into / within the boxed building form of the club. Note: the Panel's views in relation to the pedestrian bridge are discussed in greater detail later in the assessment report.

#### *Retail Management Guidelines*

Retail management guidelines should ensure that 70% of all shopfronts are transparent and activated.

#### *Driveway Portal*

The quality of the treatment of the interior of the driveway portal to Victoria Road needs to be considered as it is a very large element within the streetscape - while this area has been improved, wall finishes and details should be provided.

Comment: The provision of consistent sun shading to openings, the required transparency of shopfronts and ensuring appropriate treatment to the driveway portal, are all matters that Council agrees require further consideration and resolution. Ideally, Council considers that these matters should be resolved at the design stage and prior to a consent being contemplated.

The vehicular crossing, bridge and deep soil matters would involve significant changes to the proposal which would also require the approval from Council Engineers and Roads and Traffic Authority.

### Waterloo Street frontage

The Design Review Panel notes that planter boxes have been provided to this frontage and are considered acceptable, subject to water retention for irrigation being satisfactory, and that the transition zone for entrances to residential has been addressed quite well.

Comment: Council concurs with the Panel's comments in these respects, however, also notes that garbage bin storage fronting the dwellings to these frontages must be appropriately screened from the street and be of minimal intrusion and be adequately detailed on the plans at the design stage (refer below to site specific Development Control Plan 2000 discussions for further details).

### *Street Trees*

The choice of appropriate street trees to Waterloo Street has been discussed with both the applicant's landscape architects and Council's experts, yet that selection is not shown on the submitted drawings. Spotted Gums have been nominated as street trees.

### *Housing Types*

The housing types along this frontage are appropriate in principle, and the drawings now show window operation, sun shading, privacy devices etc, however, there remains some window and sun shading inconsistencies.

### *Substation*

The chamber substation has been reasonably accommodated, however, the wall treatment shown on Drawing DA150 as TBC should at least return around the street facade.

Comment: It is concurred that the above matters should be resolved. Ideally, Council considers that these matters should be resolved at the design stage and prior to a consent being contemplated. All external finishes and wall treatments should be nominated on Development Application drawings.

### Lane

The Panel provided the following comments regarding the lane:

- The lane on the southern boundary in principle makes good, clear pedestrian connection to Waterloo Street from Victoria Road. The Panel supports the idea of working with neighbouring properties to substantially upgrade the quality of the lane, which is currently unacceptably poor. However, the speciality retail and bike store facade should be aligned with the car park exhaust to avoid any furtive spaces.

- It would be preferable if the shop fronts (and commercial suites over) that face the lane were designed for natural ventilation. Drenchers would be required. Sufficient opportunities for natural ventilation have not been provided.
- With regard to active frontages, shopfronts at ground level and the windows above will provide surveillance of the laneway, however, there should be a minimum of 70% shop window as the ground floor frontage.
- Dedication to Council / interaction with other owners – Council could begin to look at the master plan for the rest of the site and begin the process of acquiring the land or encouraging further development to provide the potential for the public laneway to be completed.

Comment: Relocating the specialty retail façade is not problematic and could be conditioned quite readily in the event of an approval being granted. However, relocating the bike store façade has implications with regard to bike storage and locker provision and compliance with the Voluntary Planning Agreement, given this facility's location (between fire exits and stairs) it would require relocation to another part of the site, and could be addressed via a 'Deferred Commencement' Consent condition in the event of an approval being granted.

The issue of natural ventilation should be addressed by the applicant and to the satisfaction of Council and the Design Review Panel prior to any consent being granted. The requirement regarding active shopfronts could be readily conditioned in the event of an approval being granted.

The laneway is currently in various different ownerships. While acquiring this land could be explored in the future, it is not a matter that can be resolved with the current application.

In terms of paving, the Panel noted that they support the part of the proposal (within the subject site) to fully pave the lane, and that the sandstone sets may be more successful than standard sandstone paver sizes which do not wear well in public areas, particularly where there is even occasional vehicular traffic. This is noted and Council raises no issues in this regard.

#### Darling Street / Heritage

A heritage assessment prepared by Council's Heritage Officer has recommended the retention of the street facades at No. 697 Darling Street. The Council heritage report provides in its recommendation that the two existing buildings to Darling Street are "significant contributory buildings" but "as isolated elements, hold little architectural or aesthetic appeal". The principle grounds for retention appear to be the social significance as "one of the many family businesses... which grew from a small retail shop". Council's Heritage Advisor recommends retention of the existing facades as their removal will "destroy the consistency and integrity of the extant streetscape".

However, the Panel notes that the position of Council's Heritage Officer could be accepted if the proposal was to replace the existing shop fronts with new shopfronts, however, that is not the case. One of the shopfronts is single storey in a row of two

storey buildings, and therefore, the consistency is only with regard to the age of the building and not the form or architectural style.

The Panel notes that it supports in principle, the retention and adaptation of the larger two storey façade at 697 Darling Street, however:

- The Council's site specific controls, and the current design, propose that the principal pedestrian entrance to the new square be located at this location, and considers that it is highly inappropriate that such a major entrance be created through a shopfront window;
- The walkway/pedestrian lane plays a very important role in connecting the square to the main shopping strip of Darling Street, and that the opening in the street frontage and the sightlines to the square must be maintained in order to allow people easy and convenient passage into the square from the street. The entrance and visual connection is of high importance, and retention of the existing façades provides a problem with facilitating a legible connection from Darling Street to the square, and that the entry should be much more visible than an open shop front if it is to be successful.

However, the Panel also notes that, if the existing façade is removed, the new infill / building/s should be of very high merit in both its urban design and architectural expression, and that they are not convinced by the form or material of this component which does not as yet show sufficient merit to warrant support. While good arguments could be put forward for a strong contemporary design, detailed façade and streetscape studies need to be submitted to confirm that the proposed strategy is supportable.

In order to address the above, the Panel advised that issues that needed to be addressed include:

- The quality of the new building/s should be a major contributor to the street front quality. The buildings on either side of this entrance should 'turn the corner' so as the lead pedestrians and the line of sight down the lane and into the square;
  - Scale;
  - Shelter / shade;
  - Active frontages;
  - Quality shopfronts;
  - Paving material; and
  - Natural light and ventilation.

Comment: The site specific controls of the Leichhardt Development Control Plan 2000 allow for the demolition of the buildings on the site to Darling Street to facilitate the pedestrian link between Darling Street and the central plaza. Given the above, no objection is raised to proposed demolition, however, this is on the proviso that the replacement infill building/s is/are respectful of the character of the streetscape and do not detract from the streetscape.

Darling Street is largely characterised by mostly older / traditional style commercial buildings varying between one and two storeys in form and scale. The Darling Street infill will be a glazed element reaching to three storeys on the western side of the

arcade, which does not reflect the character of the street in form, height, scale, detailing or appearance and will be unsympathetic to the streetscape and Conservation Area, as well as nearby heritage items, including No. 707 Darling Street on the corner of Darling and Waterloo Streets.

Any infill buildings require a much more sympathetic and fine-grained response which reinforce prevailing streetscape merit, rather than competing with the main street character. It should be feasible to design a contemporary infill built-form which, whilst clearly articulating a modern-day origin, is nonetheless respectful of its context while meeting the design parameters outlined by the Design Review Panel. Council considers that this aspect of the proposal requires fundamental redesign.

Council's Heritage Officer also raised concern that the Darling Street infill does not provide a continuous awning across this street frontage consistent with the streetscape. This should be addressed as part of the redesign of this component.

### New Plaza

The Panel notes that the applicant has continued to improve the physical and visual access to the new plaza, which is to be commended, and that this space has the potential to be a pleasant space for the residents and as well as people attending the site for retail and work activities. However, the Panel has raised concern that the plans now show perimeter pergolas around the plaza that substantially changes the character of this area. The Panel considers the design an improvement in principle, however, the position and area of the planting should be reconsidered as there is concern that the space of the square and access to the sky is too restricted.

Comment: The latest amended drawings have incorporated a series of timber pergola structures which cover a significant proportion of the central plaza area. These structures will add to the enclosure of what was intended to be public open space. It is also likely, given experience with other public plaza spaces in Council's knowledge, that the pergolas would result in the privatisation of the plaza space, as tenants, particularly restaurants, seek to attach bistro blinds and weather shielding to the pergolas for outdoor dining areas. Whilst conditions could be imposed in the aim of preventing this outcome, a better design which does not lend itself to such use would be preferable.

### *Plan Discrepancies*

Currently there are discrepancies between the architectural and landscape drawings of the plaza, which need to be rectified;

### *Architectural Scale and Rhythm*

Some of the surrounding facades need further design development, including natural ventilation e.g. the commercial suites could have balconies overlooking this space to increase the activity and connectivity;

### *Shelter / Shade Active Frontages*

The south awning on Building C could be more generous, and the connecting awning from Darling Street could also be extended along the retail frontages. Retail

and commercial frontages should be designed for natural ventilation wherever possible.

#### *Overshadowing / Winter Sun Access*

The shadow diagrams indicate improved sun access in March. The built form may be able to be adjusted without affecting floor space to create more 'lunch time' winter sun access to the plaza. This is generally satisfactory, depending on the shadow caused by the pergola and planting.

#### *Ownership and Public Rights of Access*

The plaza should not be closed to the public day or night.

#### *Planting and Paving*

The landscape design has merit and the extent of the plaza planting has been shaped to allow good pedestrian access with the exception of the western portion under Building A. The planter should be moved further away from the column. This now needs to be resolved with the proposed pergola.

Comment: As discussed later in the report under Environmental Planning and Assessment Regulation 2000 considerations, there are numerous deficiencies and inconsistencies between plans, which should be rectified prior to any consent being granted. The applicant has not provided consistent and accurate plans, despite several Council requests.

As previously noted, the extent of pergolas over the plaza is a concern to Council and is not supported, and the Darling Street infill building requires redesign. Matters relating to shelter / shade to various frontages should be resolved in consultation with Council and the Design Review Panel prior to any consent being granted.

Regarding access to the plaza, the applicant has advised that day and night access will be provided, and this could be reinforced readily via condition in the event of an approval being granted.

#### Victoria Road footbridge

The Panel has advised that the provision of on grade pedestrian access from Victoria Road to the square is commended. Its width, levels and sight lines are all positive. Council concurs with the above conclusions of the Panel.

However, the Panel considers the pedestrian bridge is undesirable and does not support the design in its current form. In this regard, the Panel:

- Is concerned that, if constructed, the bridge would block the clear views down Victoria Road and cause adverse impacts on the narrow footpaths due to the long ramp, and considers that it would be far preferable to improve pedestrian access at grade at the intersection, or in future provide a subterranean link via a possible future concourse;

- Is concerned that the bridge's connection to the plaza is extremely awkward and narrow, with poor sightlines and lift position, and that the western incision made into the façade on Victoria Road has been reduced to accommodate changes to the design of the pedestrian bridge. The Panel also noted that this area is now compromised with regard to natural daylight, particularly to the lower levels; and
- Considers the bridge design in its current form is not appropriate and is not consistent or integrated with the architectural expression of the remainder of the development, the bridge providing a visual intrusion and clumsy juxtaposition with the existing school building.

The Panel noted that, if the bridge remains, the lift on the western side should be incorporated into the body of the building.

Comment: As previously noted, during the Rezoning process, the bridge was identified as being integral to the development in relation to pedestrian movement, access, safety issues and traffic, and is required to be provided as part of the Voluntary Planning Agreement relating to the site.

Council Officers however concur with the Design Review Panel concerns regarding the bridge with respect to design and access related matters. In this regard:

- The design of the bridge is a standard template bridge design, as favoured by the Roads and Traffic Authority, rather than a design which responds particularly to site circumstances and locale. The proposed design is a standard mesh cage tunnel-style bridge with no outstanding design merit. It does not conserve or enhance the heritage character of the area. The physicality of the bridge abuts into the heritage listed Rozelle Public School land, and is likely to generate a need for privacy screening along the eastern edge to protect the school and its students, thus creating a further erosion of character and sense of place.
- While the bridge does not directly result in the loss of any heritage fabric, the proposed bridge encroaches on the school's land, and results in further visual erosion of the school's curtilage. It will also be within the visual catchment of a number of nearby heritage items on Victoria Road / Darling Street, including the York buildings on the southern corner of Darling Street and Victoria Road. The bridge is not considered characteristic or sympathetic to the adjoining / nearby heritage items and Conservation Area.
- The bridge has a poor interface with the public plaza, suggestive of it having been designed at the latter stage of the process, rather than integrated into the design from the beginning. Visual links from the bridge into the plaza are restricted by building elements such as the lift, the connection from the eastern side of Victoria Road lacks simplicity in design that would create ease of movement for pedestrians.

The bridge has been designed with a switch back ramp, rather than a simple connection from the footpath. The bridge itself commences in excess of 40m from the Darling Street intersection. A pedestrian then has to travel a 50m+ long ramp to the top of the bridge. It is unlikely that the bridge will present as



an attractive and easy alternative access from Darling Street east to the site, particularly for less mobile pedestrians, given that there is a traffic light intersection which will provide alternate at grade linkages from the Main street to the plaza.

### Built Elements

The Design Review Panel has raised concern that the design of the building facades is not adequately developed. The applicant has provided drawings at a larger scale as requested in previous reviews, however the additional detail provided has not addressed the issues raised. In particular the concerns with the large expanses of glass that remain unshaded and do not provide sufficient thermal comfort, privacy or enclosure to provide adequate amenity for the future residents are unresolved. Natural ventilation should be achieved without compromising acoustic amenity for apartments on Victoria Road.

Comment: The applicant has attempted to address concerns raised by the Design Review Panel regarding environmental performance of the Victoria Road apartments, including by providing double glazed windows with coloured and clear glass alternating with composite insulated panels to the tower facades. However, despite such provision, the concerns raised by the Panel remain valid.

In order to achieve adequate natural ventilation to the front corner units of Buildings A and C while achieving appropriate acoustic performance, the applicant's latest Acoustic and ESD Reports prepared by AECOM note that it is proposed to provide for example ventilation plenums that would lower floor-to-ceiling heights in habitable spaces to 2.4m. This would be contrary to the provisions and objectives of the Residential Flat Design Code which supports the design quality principles of State Environmental Planning Policy No. 65 (refer below) which stipulate 2.7m floor-to-ceiling heights are required to habitable spaces. This is unsatisfactory and not supported.

### Podium / Club Facades

With respect to podium and façade elements, the Panel has resolved that the following issues have been satisfactorily addressed:

- Provision of sun shading and opportunities for natural ventilation to the retail frontages;
- The design of the large walls surrounding the Club facing towards Waterloo Street and to the north have been amended (including the provision of timber trellis elements) to reduce their height and bulk, and are now satisfactory;
- The Club's northern terrace, which previously raised overlooking and height and bulk concerns (however, notes that the area nominated as roof terrace should not be converted to active space in the future due to amenity impacts on nearby residents); and
- Reference to dark tinted glass to Victoria Road has been removed, the extent of which was previously not supported.

Comment: Council concurs with the Panel's comments regarding the sun shading and glazing amendments.

With respect to the Club changes, Council has the following concerns:

- The amendments to the Club façade detailing have occurred since the last notification of the application. Given the location of these changes, (immediately adjacent to adjoining Waterloo Street properties), they should be notified to neighbours;
- The proposed timber trellis' to these facades will most likely present on-going maintenance issues that need to be resolved.
- While the Club component to the northern boundary is within the building envelope contained within the site specific controls of the Leichhardt Development Control Plan 2000 in this location, it remains excessive in height, bulk and scale, significantly exceeding the scale of the existing car park immediately adjacent to adjoining Waterloo Street properties.
- There remains visual privacy conflicts between the northern terraces of the Club and adjoining Waterloo Street properties, with overlooking from the Plaza level winter terrace being restricted by a planter bed that will need to be maintained to achieve satisfactory privacy outcomes. No form of privacy mitigation measures to the northern terrace above have been proposed.
- The northern terraces will be a potential future noise source for adjoining Waterloo Street properties.

The Panel has raised concern that the following aspects of the podium / club facades have not been satisfactorily addressed:

- The Podium design is the least resolved part of the façades and massing, and requires improvement with regard to its architectural expression and environmental design;
- Signage on Victoria Road looks like it is just applied to the façade, and such elements need to be more integral to the design. The signage should be subject to a design review at the time of a signage development application;
- Service risers for commercial kitchens within the club should be indicated, and whether the exhaust runs through the podium roof;
- The landscape plans have been updated, however there is now need to incorporate the new pergola design; and
- Skylights could be incorporated into the plaza level of the club, in particular into the office areas.

Comment: With respect to the podium design, service risers for commercial kitchens and the inconsistent landscape plans, these matters should be resolved to the satisfaction of Council and the Design Review Panel prior to any development consent being granted.

With respect to signage, as noted above under State Environmental Planning Policy No. 64 discussions, the lack of adequate details is of concern to Council.

The issue of skylights to the plaza level of the club could be conditioned in the event of an approval being granted.

### Basements

The Design Review Panel noted the following regarding the proposed basements:

- The basements should be setback 3m to allow for a dedication along Victoria Road (refer to previous discussions) without any encroachment under the dedication;
- Residential lift areas in the basement car parking should be provided with good quality design, flooring, ceilings and lighting;
- Office spaces, such as Centre Management, must be provided with a shop frontage; and
- Subterranean work spaces with no access to natural light are unacceptable.

Comment: As previously noted, Council concurs that the basements need to be reduced / amended to provide for a 3m dedication along Victoria Road, and this will require fundamental redesign of the proposal.

The plans do not show any area dedicated to centre management, and along with the Panel's requirements regarding residential lift areas, could be conditioned in the event of an approval being contemplated. The Panel's comments regarding natural light to subterranean spaces should be resolved to their satisfaction prior to any consent being granted.

### Residential Amenity

The Panel previously raised concerns regarding the small floor area of some of the units and the ability to furnish these areas in a contemporary fashion, and now consider that this issue has been resolved through submission of further information and dimensions on plans.

Comment: It is Council's contention that the internal areas of apartments remain inadequately dimensioned, and manual measuring of the plans suggests that there are units (e.g. units in Tower A) with main living spaces that just exceed 3m in width. It is noted that the Panel previously considered 3m width main living spaces as being inadequate in order to achieve acceptable amenity.

### Environmental Amenity

The Panel noted that the following environmental amenity matters needed to be considered:

- Shading, acoustics, areas of glass, operation of windows, etc;
- Ceiling heights in the residential floors should comply with State Environmental Planning Policy No. 65 requirements (i.e. 2.7m). Floor to floor heights will need to allow for acoustic separation requirements and still achieve 2.7m; and
- Acoustic issues between the club terraces and the units above need to be addressed.

Comment: The above matters should be resolved to Council's and the Design Review Panel's satisfaction prior to any consent being granted. Council considers that matters relating to environmental and acoustic performance need to be adequately addressed by way of an integrated response and incorporated into the Development Application drawings, while not compromising compliance with the requirements of State Environmental Planning Policy No. 65 / Residential Flat Design Code. This has not been demonstrated by this proposal as amended.

### Amenity to Waterloo Street Dwellings

The Panel notes that some of the issues regarding the Waterloo Street terraces have been addressed, however, the Panel believes there is still scope for improvement, as per the following :

- changing the position of WC's from directly opposite the entry stairs, and the top floor living areas could include a small bathroom space;
- the introduction of good cross ventilation via operable windows, appropriate sun shading and ventilating skylights to all top floor bathrooms;
- venting skylights above stairs, preferably with operating louvres or at least blinds, can be used to introduce winter sunlight into the levels below and assist in creating natural ventilation via stack effect.

The dwellings over the substation are considered by the Panel to be of reasonable amenity, and it is preferred that this built form remains over the driveway to reduce the impact of what may otherwise be a gaping hole on the street and footpath.

The Panel also notes that privacy issues between roof top terraces and overlooking from Building C could be reduced if small roof areas are added to the terraces. Any issues with the separation distances between Waterloo Street residences and the tower apartments should be addressed in the Building Code of Australia report, and any remedial actions documented in the design drawings.

The Design Review Panel remains concerned regarding the environmental performance of the Waterloo Street terraces, specifically with regard to details of cross ventilation and natural day lighting opportunities.

Comment: Council concurs with the Design Review Panel's comments regarding planning and environmental performance of the Waterloo Street terraces, as well as privacy between Building C and the Waterloo Street terraces. These matters could be conditioned in the event of an approval being granted.

Council also agrees that the dwellings over the substation receive adequate amenity.

Regarding the environmental performance of the dwellings, it is noted that cross ventilation to the Waterloo Street terraces adjacent to the Building B are particularly problematic. Solar access / natural daylight access to these dwellings will also be poor.

### Northern and Southern Towers

The Panel has raised concern that the tower forms appear to have been 'bulked out' in comparison with earlier drawings submitted to Council, and recommended that a floor space ratio comparison be done so that any changes can be assessed with regard to benefit or otherwise.

The Panel raised the following issues regarding the northern and southern towers and noted the following matters:

- Some improvements could be made to Tower A at Level 2 where the corridor to the west could be continued to the podium roof and a communal outdoor space provided. A small area of roof could provide outdoor shade and weather protection. Some of this roof top could be allocated as private outdoor space adjacent to the L2 apartments;
- 2.7m ceiling heights are required as part of State Environmental Planning Policy No. 65;
- Some more specific drawings have been provided through the entire height of the relevant elevation. Sun shading, natural ventilation and noise reduction all need to be addressed - a double skin facade system should be investigated to achieve natural ventilation and provide acoustic separation from road noise. While some improvements have been made, the Panel considers this to be one of the major issues that requires more detailed resolution;
- Top floor internal bathrooms and corridors should be provided with ventilating skylights. This has not as yet been complied with, and remains outstanding.

Comment: The Panel's suggestion regarding a communal roof at Level 2 of Tower A is noted, however, has not been pursued by the applicant's.

Matters relating to environmental and acoustic performance to the apartments should be resolved prior to any consent being granted. In order to achieve adequate natural ventilation to the front corner units of Buildings A and C while achieving appropriate acoustic performance, lower floor-to-ceiling heights of 2.4m are proposed to various units contrary to the provisions and objectives of the Residential Flat Design Code which supports the design quality principles of State Environmental Planning Policy No. 65. Additional thermal and acoustic modelling to check on the environmental performance of the facades needs to be carried out,

while ensuring the development meets all requirements and objectives of State Environmental Planning Policy No. 65 / Residential Flat Design Code.

Provision of skylights to the top level dwellings as suggested by the Panel would need to take into account the location of proposed roof elements such as solar collector panels and planters.

#### DA Submission – Further Information Required

The Panel previously:

- Raised concern regarding the drawings lacking coordination between sections, elevations and plans. While a number of these issues, such as additional dimensions and the like, have now been provided, other elements, such as the pergola around the plaza, are not consistently represented;
- Requested that a complete schedule of units, commercial spaces and areas be submitted, however, this has only partially been provided;
- Raised concern regarding the level of 3D views, which have now been updated, and are now generally satisfactory;
- Requested detailed wall sections and part elevations, at 1:50 scale, be prepared for all major elevations visible to the public domain and the square, and noted that a convincing facade solution that deals with the environmental and acoustic conditions of the site had not been provided and that the Panel had serious concerns that residential amenity will be compromised by heat gain and noise problems. While some additional drawings have now been provided, concerns remain, particularly in regard to the glazed end pieces exposed to Victoria Road.

Comment: A list of plan and document errors and omissions are addressed later in this report under Environmental Planning and Assessment Regulation 2000 considerations. Other concerns noted above have been addressed previously in this report.

The Panel also noted that the relocation of the communications towers should be included on the elevations and 3D views, and that their position and size should be indicated. The applicant has confirmed that the communication towers and equipment currently on the site are to be removed. A note on the plans should be provided confirming the above, which could be reinforced via condition in the event of an approval being granted.

#### Design Review Panel Conclusion

The Panel recognises the merits of many aspects of the application. However, the Panel:

- Notes that this is a major proposal on a major site, and therefore, merits detailed consideration and requires a high level of design throughout;

- Recognises that a number of issues have been satisfactorily resolved by the applicant in their recent amendments to the Development Application drawings, however, major issues such as the Victoria Road dedication, the glazed ends exposed to Victoria Road, the plaza and extent of pergola, details of the environmental performance of the dwellings, and the like, are not sufficiently resolved in the current drawings. There also remains design issues with respect to the Darling Street infill that remain unresolved.
- The proposal remains unsupportable in its current form or until such time as the above issues are resolved to the Design Review Panel's satisfaction.

#### Clauses of State Environmental Planning Policy No. 65

##### *Clause 30(2)*

Clause 30(2) of State Environmental Planning Policy No. 65 reads as follows:

*(2) In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) the advice (if any) obtained in accordance with subclause (1), and*
- (b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
- (c) the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

The design quality principles of State Environmental Planning Policy No. 65 are:

- Principle 1: Context;
- Principle 2: Scale;
- Principle 3: Built form;
- Principle 4: Density;
- Principle 5: Resource, energy and water efficiency;
- Principle 6: Landscape;
- Principle 7: Amenity;
- Principle 8: Safety and Security;
- Principle 9: Social dimensions and housing affordability; and
- Principle 10: Aesthetics.

The application is accompanied by a Design Verification Statement which assesses the proposal against the above ten (10) design principles set out in the State

Environmental Planning Policy and the provisions of the Residential Flat Design Code which supports the design principles.

### Residential Flat Design Code

#### *Part 01 – Local Context*

With regard to matters considered in this part of the Code relating to building height, building separation and street setbacks, this was addressed as part of the rezoning. Assessment of the proposal against the site specific Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 is undertaken in other sections of this report.

However, this part also aims to ensure that development is in keeping with optimum capacity of the site and the local area. It is noted that the proposal involves a number of floor space ratio / development standard breaches, which are not supported due to various non-compliances with Council site specific controls of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000, as well as the aims and objectives of State Environmental Planning Policy No. 65. This raises concerns that the proposal is an overdevelopment of the site contrary to the objectives of this part. Refer to assessment throughout this report, including the assessment under Leichhardt Local Environmental Plan 2000 discussions.

#### *Part 02 – Site Design*

### Visual Privacy

This part aims to provide reasonable levels of visual privacy externally and internally, during the day and night.

The window and balustrade treatment of a number of units on Waterloo Street do not appear to ensure adequate levels of privacy to living rooms, bedrooms and balconies. This may result in future occupants of those dwellings implementing add-hoc privacy mitigation measures. Integrated solutions such as planting and solid or semi-solid balustrades or louvred screens would be required in the aim of addressing this issue.

Council has previously raised concern regarding visual privacy conflicts. Despite these concerns, there remain potential adverse visual privacy conflicts between the various units within the development due to openings and / or balconies of abutting units being adjacent to one another and their minimal separation. Furthermore, proposed changes that have most recently been carried out to reconfigure the layout of the units fronting Victoria Road appear to have exacerbated privacy conflicts.

Examples of adverse visual privacy conflicts not adequately addressed / exacerbated include between:

- The bedroom openings of Units 8 in Building A and the balconies of various abutting units;
- The bedroom openings of Units 1 in Building C and the balconies of various abutting units;



- Some of the western units of Building B and the skylights (assuming they are clear glazing), balcony and windows of Waterloo Street terraces to the immediate west; and
- The Level 1 rear facing terraces of Units 1, 5 and 12 and the courtyards and balconies below.

Any privacy conflicts between dwellings should be addressed by the architect as part of the design process.

### Building Entry and Pedestrian Access

Objectives / rules of thumb of this part aim to create entrances with identity, assist in orientation of visitors and connect residential development to the street.

Despite Council previously raising concern regarding the location of proposed mailboxes and access related issues for Australia Post, the plans show mailboxes within secure foyers of all apartment buildings. Australia Post Point of Delivery Policies do not permit postman delivering to secured foyers, therefore the mailboxes should be relocated to an appropriate location outside of the secure lobby areas.

Directional signage should also be provided to assist visitor orientation to the site.

### Parking

Objectives / rules of thumb of this part aim to minimise car parking dependency whilst still providing adequate car parking.

An assessment of the car parking provision is provided later in this report.

## *Part 03 – Building Design*

### Apartment Layout / Circulation

The objectives of this part are to ensure that the spatial arrangement of an apartment is functional and well organised, provides high levels of residential amenity, that maximises the environmental performance of the apartments and accommodates a variety of household activities and occupant's needs.

Council have previously raised concern regarding the spatial arrangement of various units. The spatial arrangement and narrowness of the one bedroom units in Building A, as well as sizes of the kitchen (e.g. Units 7 in Building A) and dining space (e.g. Units 1 and 2 of Building B) to various apartments are of particular concern. The apartments appear to be designed to achieve the minimum in terms of compliance with the provisions of the Code.

## Balconies

Part 3 general rules of thumb require that balconies for all apartments achieve a minimum width of 2m. The objectives of this part include providing all apartments with open space that is functional and promotes the enjoyment of outdoor living for apartment residents.

Some of the dwellings in Towers A and C do not meet the minimum dimension requirement, however, this is not objected to on the basis that they are all approximately 10m<sup>2</sup> or greater in size and of a configuration that will be functional and provide adequate outdoor amenity to future residents of the development.

## Storage

The Residential Flat Design Code requires that, in addition to kitchen cupboards and bedroom wardrobes, a development should provide accessible storage facilities at the following rates:

- One bedroom apartments – 6 cubic metres;
- Two bedroom apartments – 6 cubic metres; and
- Three bedroom apartments – 10 cubic metres,

with better design practice including:

- Ensuring that 50% of the required storage within each apartment is accessible from the hall or living area;
- Providing dedicated storage rooms on each floor which could be leased by residents if required; and
- Providing dedicated and leasable storage areas within internal or basement car parks.

Council has previously raised concerns regarding a lack of detail relating to compliance with this requirement.

There are 41 X 1 bedroom dwellings, 93 X 2 bedroom dwellings and 11 X 3 bedroom dwellings (inclusive of terraces) – a total of 145 dwellings.

A total of 129 storage compartments have been provided by the applicant within basement levels 5 and 6, comprising:

- 30 storage areas within basement 5 for the 28 dwellings in Building B and on Waterloo Street of sizes nominated as varying between 2.3-3m<sup>2</sup> ;
- 101 storage areas within basement 6 for the 117 X 1, 2 and 3 bedroom dwellings in Buildings A and C at sizes varying between 2.3m<sup>2</sup> and 3.9m<sup>2</sup>.

Despite the above storage provision, it has not been demonstrated that storage has been provided in accordance with the objectives of the Code. In this regard:

- The storage areas are not allocated to various units, individual areas are nominated in square rather than cubic metres and sixteen (16) dwellings do not have any basement storage;
- It has not been demonstrated that storage has been provided in accordance with best practice, being that 50% of the required storage is provided within all apartments accessible from a hall or living room (such provision should be clearly notated on the plans, including its size).

It is considered reasonable to expect the applicant to nominate storage areas in accordance with the guidelines of the Code, and to ensure that such provision does not adversely compromise the ability of the development to achieve other performance requirements of State Environmental Planning Policy No. 65 / Residential Flat Design Code. It is also considered reasonable that occupants of units should have ready access to appropriately sized storage without having to catch a lift down to the basement.

### Acoustic Privacy

The Code requires that apartments be arranged within a development to minimise noise transition between flats, by locating busy, noisy areas next to each other and quieter areas next to other quiet areas (e.g. living rooms with living rooms, bedrooms with bedrooms).

Council has previously raised concern regarding potential acoustic privacy conflicts between units. This matter has still not been adequately resolved. Examples of potential acoustic privacy concerns include:

- Bedroom to Units 3 and 4 in Building A abut the living rooms of the adjoining unit;
- Bedroom to Units 3 of Building B located adjacent to lift core;
- Bedroom to Units 2 in Building C abut balcony of adjoining unit;
- The upper level living room and terrace of Unit 9 on Waterloo Street located less than 4m from adjoining bedrooms in Building B.

The arrangement of apartments and internal and external spaces requires review in order to mitigate acoustic privacy concerns between dwellings.

### Daylight access

Part 3 of the Residential Flat Building Code rule of thumb requires the following:

*Living rooms and private open space of at least 70% of the dwellings receive a minimum of three (3) hours sunlight access between 9:00am and 3:00pm in mid-winter.*

Council have previously raised concern regarding the adequacy of the solar access diagrams provided and non-compliance with the above controls, in particular the need to provide a solar access analysis, dwelling-by-dwelling and floor-by-floor,

demonstrating which living spaces and open space areas of which units, receive solar access in accordance with the above controls.

The applicant has since provided additional solar access diagrams in elevation identifying which living rooms of which units obtain sunshine, on an hour-by-hour basis, between 9:00am and 3:00pm in mid-winter. Council staff have reviewed this information, and have determined that the proposal does not satisfy the requirement of the Code stipulated above. The applicant has also submitted a table of solar access identifying for each unit whether that unit receives sunshine at 9.00am, 10.00am, 11.00am, 12 noon, 1.00pm, 2.00pm, 3.00pm. However, three things are noted in regard to the solar access compliance table:

- The table itself acknowledges that, even if its figures are correct, less than 70% of units will receive three hours sunshine. In this regard, 68.8% is stated;
- The 68.8% is incorrect. Inaccurate calculations have been made – for example, where a unit is shown as receiving sunshine at 1.00pm, 2.00pm and 3.00pm, the table puts “yes” against each hour, and then claims that the three “yes” marks equals three hours of sunshine. However, if a unit only begins to receive sunshine at 1.00pm, and the cut off under the Code and the Leichhardt Development Control Plan 2000 is 3.00pm, then the maximum sunshine this unit obtains is between 1.00pm and 3.00pm, being two hours, not three. When these units are discounted, the compliance figure falls to less than 55%;
- There are inconsistencies between the hours nominated on the compliance table and the hours shown on the solar access diagrams, suggesting the information provided cannot be relied upon.

The applicant has not provided an equivalent solar access plan for private open spaces for all dwellings, and therefore, it is not possible to determine whether the proposal complies with the open space solar access controls stipulated above. Due to such factors as the location of solid blade walls and other built elements, the solar access achieved to living room windows cannot be directly extrapolated to balconies.

The application does not comply, and this non-compliance is unacceptable.

#### Natural Ventilation and Ceiling Heights

Rule of Thumb for natural ventilation is as follows:

- Building depths, which support natural ventilation typically range from 10-18m;
- 60% of residential units should be naturally cross ventilated;
- 25% of kitchens within a development, should have access to natural ventilation; and
- Development, which seeks to vary from the minimum standards must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.

Part 3 of the Code also requires 2.7m floor-to-ceiling heights to habitable rooms.

The proposal meets the building depth requirement. Further, based on the information provided, including notations on the plans relating to openable windows, it can be concluded that in excess of 25% of dwelling kitchens are naturally ventilated, and that the development complies with the Residential Flat Design Code in this regard. Based on the plans provided, including notations on the plans relating to openable windows, in excess of 60% of the total number of units within the development are cross ventilated in accordance with the Code (i.e. have openable windows to at least two elevations).

However, in order to achieve adequate ventilation to the front corner units of Buildings A and C, the applicant's Ecologically Sustainable Development report prepared by AECOM confirms that a lower ceiling of 2.4m is to be provided within areas of the dwellings, including the balcony. This ceiling height is contrary to the provisions of the Code which requires 2.7m floor-to-ceiling heights to habitable spaces.

#### Facades and Energy Efficiency

The objectives of these parts are:

- To promote high architectural quality in residential flat buildings, ensure that new developments have facades which define the public domain and desired street character and to ensure that building elements are integrated into the overall built form and façade design; and
- To reduce the necessity for mechanical heating and cooling and supporting and promoting energy initiatives.

As noted previously in this assessment, the Design Review Panel has raised concern on numerous occasions regarding the environmental performance of the residential component, and that the level of documentation does not provide sufficient information to properly assess the environmental performance of the dwellings.

The plans are inconsistent with the submitted BASIX Certificates - these inconsistencies should be rectified prior to any consent being granted.

#### Waste Management

The following comments are made in response to the Waste Management Plan prepared by DKO Architecture and dated 11 March 2010:

- Page 6, Table 2 regarding green waste reuse & recycling off-site – the nominated destination site at Moore Street Transfer Station Leichhardt is not acceptable, and an alternative destination should be nominated (maybe possible to dispose to WSN Eastern Creek);
- Page 6, Table 2 regarding glass and that “nil” is nominated for disposal - window / safety glass is not recyclable, therefore, should be in disposal column;

- Page 7, Form 4 Construction - Table 3
  - Particle board is not recyclable therefore excess should be in disposal column;
  - Glass - excess window - safety glass is not recyclable therefore excess should be in disposal column
- Page 8 - 2.6. 2 - 1st paragraph - Statement regarding each level in Building A, B and C having storage for 4 x 240 litre MGB's is contradicted in Table 5. Building A needs 6, B needs 4 & C needs 5 x 240 litre MGB's. Compliance should be demonstrated on the plans;
- Page 8 - 2.6. 2 - 3rd paragraph - Council will not be collecting bins unless they are all presented within the loading dock i.e will not be using the proposed service corridor to collect Store Building B and the Club bins. These bins should be presented in the loading dock by a caretaker or building manager;
- Page 10 - 2.6.4 Commercial Waste Management- Council does operate a commercial waste service and can collect residual waste bins on a daily basis Monday to Friday;
- Council cannot accommodate the collection of recycled material on a daily basis. Other waste / recycling service providers may be able to accommodate the frequency required for recycling bins;
- Page 12, Point 2.6.9 Waste collection vehicles and access to site - Requirements specified will conform with Council's vehicles;
- Apart from the above, the revised Waste Management Plan is generally acceptable and efforts have been made to consider the source separation of various waste streams, the differences required for the residential and commercial sectors and education for each. Actions regarding the collection of waste dockets for all waste/recycling during demolition and construction will need to be implemented i.e. ensure collection of dockets.

The above could be addressed via condition in the event of an approval being granted.

### ***State Environmental Planning Policy BASIX 2004***

The BASIX Certificates are generally acceptable. However, the roof plans do not show the location of photovoltaic panels, only solar thermal (hot water), and Block B only shows 33m<sup>2</sup> of panel where 65m<sup>2</sup> is nominated on the relevant BASIX Certificate. The roof plans must show the location and size of each photovoltaic system and solar thermal system, clearly identifying which area is photovoltaic and which is hot water.

This has been previously raised with the applicant and has not been resolved. Consistency between the plans and relevant BASIX Certificates should be addressed prior to any consent being granted.

### **State Environmental Planning Policy Major Development 2005**

Schedule 1 of State Environmental Planning Policy (Major Developments) 2005 classifies residential / retail / commercial projects that have a capital investment of more than \$100 million as Part 3A Projects. The consequence of this requirement is that the Development Application would need to be considered by the Department of Planning and determined by the Planning Assessment Commission.

Clause 3(2)(a) of State Environmental Planning Policy (Major Developments) 2005 provides the following definition of "Capital Investment Value"

*"The capital investment value of a development includes all costs necessary to establish and operate the development including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment (but excluding GST and land costs)."*

In response to concerns community concerns and based on information provided by the applicant during the rezoning process, Council had reason to investigate the capital investment value of the development. This issue was raised with the applicant on a number of occasions.

Council commissioned an independent quantity surveyor to calculate the capital investment value of the development. This independent report suggests that the capital investment value of the development is \$111,710,715.

The applicant was given the opportunity to respond to this report and provided information stating that the capital investment value had been reassessed at \$96,650,000.

Notwithstanding this discrepancy and given that the assessment of the application was well advanced, Council has proceeded with the assessment of the application and reporting of the matter to the Joint Regional Planning Panel.

### **State Environmental Planning Policy Infrastructure 2007**

State Environmental Planning Policy (Infrastructure) 2007 provides a planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The State Environmental Planning Policy supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

#### **Roads and Traffic Authority**

The application was referred to the Roads and Traffic Authority for review and comment, and Council received a response to this referral on 21 April 2010. The response advised that the matter was considered by the Sydney Regional Development Advisory Committee (SRDAC) at its meeting held on 21 April 2010, and the following was noted:

*"1. Discussions have taken place between the applicant and the RTA with regard to resolving issues in relation to the pedestrian bridge over Victoria Road. The applicant's architect has submitted concept design plans for the proposed pedestrian bridge that were reviewed by the RTA to determine whether the RTA could provide 'in principle' approval to the pedestrian bridge. Upon reviewing the submitted concept design plans, the RTA provides 'in principle' approval to the proposed pedestrian bridge over Victoria Road, however, the detailed design plans are still subject to satisfactory compliance with all RTA requirements. The detailed design plans to be submitted to the RTA will require approval under Section 87 of the Roads Act, 1993 and be subject to the following requirements:*

- a) It is noted that the Voluntary Planning Agreement (VPA) between the applicant and Leichhardt Council, dated 26 June 2008, clearly states that the onus is on the developer to construct a pedestrian bridge across Victoria Road. This requires the developer to adequately design and resolve all matters relating to the pedestrian bridge and ramps, including the acquisition of land.*
- b) It is clear that for the pedestrian bridge to be constructed, land acquisition from the adjacent Department and Education and Training land will be required to facilitate the delivery of a safe and functional pedestrian bridge that meets the VPA requirements of delivering a material public benefit. Therefore, the RTA's 'in principle' approval to the concept design for the proposed pedestrian bridge is subject to the developer successfully addressing all issues relating to land acquisition from the adjacent Department of Education and Training land to construct the pedestrian bridge.*
- c) The construction of the pedestrian bridge and left turn deceleration lane on Victoria Road will require the developer to enter into a Major Works Authorisation Deed (WAD). This Major WAD is to be undertaken in two stages whereby, Stage 1 will incorporate the left turn deceleration lane and Stage 2 will incorporate the pedestrian bridge over Victoria Road.*
- d) The provision of the pedestrian bridge over Victoria Road and associated works shall be designed to meet all relevant RTA and AUSTRROADS requirements and all relevant Australian Standards. The pedestrian bridge is to comply with AS 51 00 - Bridge Design Code, AS 1428-Design for Access and Mobility, the RTA Bridge Technical Direction and the RTA's Structural Drafting and Detailing Manual. The design plans shall be endorsed by a suitably qualified and chartered Engineer (ie. who is registered with the Institute of Engineers, Australia). The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The detailed design plans of the pedestrian bridge shall be submitted to the RTA for review and approval prior to the release of the Construction Certificate by the Principle Certifying Authority. The RTA fees for administration, plan checking and project management shall be paid by the developer prior to the commencement of works.*



- e) *The developer will be required to enter into a staged Major Works Authorisation Deed (WAD) for the construction of the abovementioned pedestrian bridge. The Major Works Authorisation Deed (WAD) will need to be executed prior to the RTA's assessment of the detailed design plans for the pedestrian bridge. The Construction Certificate shall not be released by Council until such time that the Major WAD is executed. Standard conditions of the Major WAD will require the developer to carry out an independent Stage 3 and 4 Road Safety Audit where full scrutiny will be given to the safety of the traffic, pedestrian and cyclist environment.*

*Comment:* *It is requested that Council advise the developer that the conditions of consent set by Council do not guarantee the RTA's final consent to the specific road work and other structure works on the classified road network. The RTA must provide a final consent for each specific change to the State road network prior to the commencement of any work.*

- f) *The developer will be responsible for the full cost of maintenance for the pedestrian bridge for a period of 15 years. All maintenance will be carried out in accordance with RTA requirements and at the conclusion of the 15 year maintenance period by the developer the ownership of the pedestrian bridge will be handed over to the RTA.*
- g) *The RTA will not be permitting any advertising to be displayed on the pedestrian bridge over Victoria Road on road safety grounds.*
- h) *The proposed pedestrian bridge is to comply with Technical Direction, TO 2002/RS02 (Policy for the Screening of Bridges).*
- i) *No Occupation Certificate shall be released for any stage of the development until such time that the abovementioned pedestrian bridge over Victoria Road is fully constructed and operational.*

*Further to the above, the RTA grants its concurrence to the proposed entry driveway via a deceleration lane under Section 138 of the Roads Act, 1993, subject to the following requirements which are to be incorporated into the development consent:*

2. *The left turn deceleration lane into the subject site from Victoria Road shall be a minimum of 55 metres in length (including taper). The design of the proposed deceleration lane on Victoria Road shall be endorsed by a suitably qualified and chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia). The design requirements (where applicable) shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to the RTA for consideration and approval prior to the release of the Construction Certificate by the Principle Certifying Authority and commencement of road works. The existing lane widths along Victoria Road should not be compromised.*

*The developer will be required to enter into a staged Major Works Authorisation Deed (WAD) for the construction of the abovementioned left turn deceleration lane. The Major Works Authorisation Deed will need to be executed prior to*

*the RTA's assessment of the detailed design plans for the left turn deceleration lane. The Construction Certificate shall not be released by Council until such time that the Major WAD is executed. Standard conditions of the Major WAD will require the developer to carry out an independent Stage 3 and 4 Road Safety Audit where full scrutiny will be given to the safety of the traffic, pedestrian and cyclist environment.*

*Comment: It is requested that Council advise the developer that the conditions of consent set by Council do not guarantee the RTA's final consent to the specific road work and other structure works on the classified road network. The RTA must provide a final consent for each specific change to the State road network prior to the commencement of any work*

- 3. To facilitate the provision of the left turn deceleration lane on Victoria Road, the applicant shall provide a 3.5 metre wide land dedication from the subject site on the Victoria Road frontage of the site for the full length of the left turn deceleration lane. This land shall be dedicated as public road at no cost to the RTA and Council. This land dedication from the subject site as public road shall be executed, prior to any release of a Construction Certificate for the proposed development*
- 4. No Construction Certificate shall be released for any stage of the development until such time that the abovementioned left turn deceleration lane is fully constructed and operational.*

*Note: The RTA raises no objections to the left turn deceleration lane being constructed and fully operational after such time that the demolition of the main structures on the site has occurred. After demolition of the main structures has occurred on site, the construction of the left turn deceleration lane will allow for a safer means of construction access to the subject site by trucks, so as to minimise the effects on traffic flow on Victoria Road*

- 5. The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RTA for assessment (prior to the approval of any Construction Certificate). The developer is to meet the full cost of the assessment by the RTA.*

*This report would need to address the following key issues:*

- a) The impact of excavation/rock anchors on the stability of Victoria Road and detailing how the carriageway would be monitored for settlement.*
  - b) The impact of the excavation on the structural stability of Victoria Road.*
  - c) Any other issues that may need to be addressed (Contact: Geotechnical Engineer Stanley Yuen on Ph: 88370246 or Graham Yip on Ph: 8837 0245) for details.*
- 6. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.*

*Details should be forwarded to:*

**The Sydney Asset Management  
PO Box 973  
Parramatta CBD NSW 2124**

*A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 21 14 or Fax: 8849 2766.*

- 7. The RTA requests that a Loading and Service Area Management Plan be prepared to address the ongoing management of commercial vehicles in relation to the proposed retail loading dock area. The Loading and Service Area Management should recommend strategies for dealing with loading and service area management during peak trading hours for the supermarket (ie. Thursday night, Saturday midday, Sunday etc). Details of hours of operation, access arrangements and traffic control should also be submitted to Council, for review and comment, prior to the issue of an Occupation Certificate for the proposed development.*
- 8. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard a swept path plan is to be submitted to Council for approval that demonstrates compliance with this requirement.*
- 9. The developer shall be responsible for all public utility adjustments/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.*
- 10. All works/regulatory sign posting associated with the proposed development are to be at no cost to the RTA.*

*Further to the above, the Committee and RTA provide the following advisory comments to Council for consideration in the determination of the development application:*

- 11. Car parking provision to Council's satisfaction.*
- 12. The layout of the proposed car parking areas 'associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 - 2004 and AS 2890 - 2002 for service areas.*
- 13. Disabled parking spaces should be clearly marked and located adjacent to lifts.*
- 14. The proposed turning areas within the carpark are to be kept clear of any obstacles, including parked cars, at all times.*
- 15. The internal aisle ways are to be marked with pavement arrows to direct traffic movements in / out of the site and guide traffic circulation through the car park.*
- 16. It is noted that the development proposes removal of 15 car spaces on Darling Street (as indicated on the development plans). This will require the need for community consultation to the satisfaction of. Council.*

17. *All vehicles are to enter and leave the site in a forward direction.*
18. *All vehicles should be wholly contained on site before being required to stop.*
19. *All loading and unloading shall occur on site.*
20. *A Demolition and Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council and RTA for review, prior to the issue of a Construction Certificate. The CTMP shall comply with the RTA's Traffic Control at Work sites Manual.*
21. *A Road Occupancy Licence should be obtained from the RTA's Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities.*
22. *All demolition and construction vehicles are to be contained wholly within the site, as no parking will be permitted on Victoria Road.*
23. *Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 - 2004 for light vehicles and AS 2890.2 - 2002 for heavy vehicles.*
24. *The required sight lines to pedestrians or other vehicles in or around the car park or entrances should not be compromised by landscaping, signage, fencing or display materials. In addition, measures should be implemented to improve visibility to pedestrians and other vehicles where sight distance is restricted.*

*In accordance with Clause 104(4) of State Environmental Planning Policy (Infrastructure) 2007, it is essential that a copy of Council's determination on the proposal (conditions of consent if approved) is forwarded to the RTA at the same time it is sent to the developer."*

Despite the above RTA concurrence, Council's Engineers have raised a number of concerns relating to traffic, access and egress related matters and non-compliance with AS/NZS2890.1:2004, and these issues can not be resolved via condition.

Further to the above, there are concerns relating to the design of the bridge, and the applicant has failed to obtain owners consent for this component.

### Sydney Metro

Sydney Metro has previously undertaken discussions with the proponent in regard to the integration of the Development Application with the CBD Metro (Stage 1).

By virtue of clause 88 of State Environmental Planning Policy (Infrastructure) 2007, Sydney Metro has a concurrence role in respect of the Development Application. The matters which Sydney Metro is required to consider pursuant to clause 88 of the Infrastructure State Environmental Planning Policy are the likely effect of the proposed development on:

- (a) *the practicability and cost of carrying out rail expansion projects on the land in the future, and*
- (b) *without limiting paragraph (a), the structural integrity or safety of, or ability to operate, such a project, and*
- (c) *without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of such a project.*

Sydney Metro notes that the Development Application does not address the impact of the proposed development on the CBD Metro (Stage 1) project and no information has been provided by the proponent concerning the integration of the proposed development with the CBD Metro (Stage 1). This is a relevant factor in determining the likely effect of the development on the prescribed matters for concurrence. In light of the above and having considered the matters specified by clause 88 of the Infrastructure State Environmental Planning Policy, Sydney Metro grants its concurrence to the Development Application, subject to the Council imposing the following condition of consent as a deferred commencement consent under section 80(3) of the Environmental Planning and Assessment Act 1979:

*A. Pursuant to section 80(3) of the Environmental Planning and Assessment Act 1979 (Act), this development consent is not to operate until the applicant satisfies the Council as to the following matter:*

1. *The CBD Metro (Stage 1) project does not affect the land.*

*Note: The CBD Metro (Stage 1) project is the subject of an application under Part 3A of the Act (Application No: 09-0036) and as at the date of this deferred commencement consent, no approval has issued under Part 3A. The period within which the applicant must produce evidence to satisfy the Council as to the matter set out in condition A above is 9 months from the date of grant of this consent. The applicant must satisfy the Council as to the matters set out in condition A above, within the time frame specified above.*

The applicant may, for example, be able to satisfy Council in regard to the deferred commencement condition by providing a letter from Sydney Metro that the CBD Metro project does not affect the Land. Such a letter would need to be provided within 9 month period referred to in the condition.

Should the CBD Metro (Stage 1) project be approved, a modification to the Development Application will be required and further consent. In accordance with clause 63 of the Environmental Planning and Assessment Regulation 2000, the reason for the grant of concurrence subject to the imposition of this condition is as follows:

*The CBD Metro (Stage 1) project is currently proposed to affect the land to which the Development Application relates. In circumstances where the Development Application does not include any proposal to deal with the integration of the CBD Metro (Stage 1) project, the proposed development is only achievable and viable in circumstances where the CBD Metro (Stage 1) does not affect the Land. Accordingly, any development consent that may be granted must be conditional*

*upon the proponent satisfying the Council that the CBD Metro (Stage 1) will not affect the Land within the prescribed 9 month period.*

### **Sydney Regional Environmental Plan (Sydney Harbour) 2005**

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 contains visual, environmental, and heritage provisions which are required to be addressed and satisfied.

The subject site is located within the Sydney Harbour Catchment, but is not located within the Foreshores and Waterways Area, Wetlands Protection Area or identified as a Strategic Foreshore Site.

The site is approximately 600 metres from Iron Cove and would be visible from the waterway. Iron Cove comprises a number of residential developments at Birkenhead Point and Rozelle (Balmain Shores and Balmain Cove).

Clause 21 of the Sydney Regional Environmental Plan deals with biodiversity, ecology and environmental protection

It is noted that Council planning staff as part of the considerations for the current site specific controls for the site (specifically the building envelope controls) stated that, given the development envelope would step with the topography of the site and distance of the subject site from the shore it is unlikely that the proposal would significantly impact on the shoreline. No wetland, environmentally sensitive or items of heritage (as provided by the Sydney Harbour Catchment) will be affected by the development. NSW Maritime has also confirmed in writing dated 22 April 2010 that they raise no objections to the development.

### **Leichhardt Local Environmental Plan 2000**

#### Permissibility

The site is zoned Business, and is the subject of site specific controls under Local Environmental Plan 2000 (Amendment 16). The proposed uses on the site, being residential, retail, restaurant, commercial, professional consulting rooms, and club, are all permissible uses in the zoning.

The land on the north-eastern side of Victoria Road on which the proposed pedestrian bridge will be partially constructed (i.e. the Rozelle Public School site), is zoned Public Purpose in accordance with Local Environmental Plan 2000. The pedestrian bridge falls under the definition of a “road” under Local Environmental Plan 2000, which is:

**“Road** means a way open to the public for the passage of vehicles, persons and animals, including:

- (a) any bridge, tunnel, causeway, road-ferry, ford, street, lane, pathway, footpath, cycleway, nature strip, crossing, by-pass, thoroughfare and trackway, or other work or structure forming part of the road, and
- (b) the airspace above the surface of the road, and

(c) *the soil beneath the surface of the road.”*

A “road” is permissible in the Public Purpose zone. It is therefore considered that the pedestrian bridge is permissible development in this instance.

### **Development Standards**

<b>Development Standard</b>	<b>LEP 2000 Control</b>	<b>Proposed</b>	<b>Complies</b>	<b>% of Non-compliance</b>
Clause 19(6) Diverse Housing	<ul style="list-style-type: none"> <li>• Min 25% bedsit or 1 bedroom</li> <li>• Max 30% 3 or more dwellings</li> </ul>	• 41 X 1 bedroom or 28.3%	Yes	N/A
		• 11X3 bedroom dwellings or 7.5%	Yes	N/A
Clause 19(7) Adaptable Housing	Min. 10% of dwellings	17 out of 145 = 11.7%	Yes	N/A
Part 3(4)(a) Floor Space Ratio – Total	3.9:1 (gross entitlement is 28603m <sup>2</sup> )	32919 / 7334.1 = 4.49:1 **	No	15.1%
Part 3(4)(b) FSR – Retail / Shops *	1.3:1 (shops entitlement is 9534m <sup>2</sup> )	10213 / 7334.1 = 1.39:1	No	6.9%
Part 3(4)(c) FSR – Commercial	0.2:1 (Commercial entitlement is 1466.8m <sup>2</sup> )	1463.9 / 7334.1 = 0.2:1 (rounded up)	Yes	N/A
Part 3(4)(d) FSR – Club	0.5:1 (Club entitlement is 3667m <sup>2</sup> )	3035.7 / 7334.1 = 0.41:1	Yes	N/A
Part 3(4)(e) FSR – Residential	1.9:1 (Residential entitlement is 13934.8m <sup>2</sup> )	14380.4 / 7334.1 = 1.96:1	No	3.6%
Part 3(4)(f) Building Height within 10m of Waterloo Street	12.5m above road level	All building heights within 10m of Waterloo Street is less than 12.5m above road level	Yes	N/A

Development Standard	LEP 2000 Control	Proposed	Complies	% of Non-compliance
Part 3(4)(g) Building Height and No. of storeys within 36m of Darling Street	RL52AHD or no greater than 2 storeys	RL52 and two storeys ***	Technically complies	N/A
Part 3(4)(h) Maximum building height and number of storeys	RL82AHD or 12 storeys	RL82 but Building A is 13 storeys	Yes – RL No – Number. of storeys	8.3%

\* Shop component also includes restaurants

\*\* Ancillary floor space such as plant, basement storage, pedestrian access routes and the like equates to approximately 3826m<sup>2</sup> (0.52:1) of the total gross floor area of the building. If these spaces were deleted from the floor space calculations, the development would achieve a gross floor area of 29093m<sup>2</sup> and a Floor Space Ratio of 3.96:1, which would still not comply with Part 3(4)(a) of the Leichhardt Local Environmental Plan 2000.

\*\*\* The Darling Street infill buildings are technically two storeys, however, the western infill is identical in height and form to the original proposal submitted to Council, which contained three levels (the sketch drawings submitted for assessment are inconsistent with the architectural plans as they show the western portion of the Darling Street infill as three levels). Therefore, the height of the western portion of front façade of the Darling Street infill is three storeys in height and form.

### **STATE ENVIRONMENTAL PLANNING POLICY NO. 1 – DEVELOPMENT STANDARDS**

As discussed above, the proposal does not comply with the total floor space ratio, retail floor space ratio, and residential floor space ratio development standards or the number of storeys development standard. The application has been accompanied by State Environmental Planning Policy No. 1 objections in respect of all of these development standards.

State Environmental Planning Policy – Development Standards makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown that compliance with the standard would be unreasonable or unnecessary.



With respect to the State Environmental Planning Policy No. 1 Objections lodged, the proposal has been considered against the following assessment criteria:

**1. Is the control a development standard?**

The controls are numeric standards imposed with the objective of controlling overall bulk and scale of the development. It is considered that they constitute development standards.

**2. What is the underlying object or purpose of the standard?**

Clause 20 of Local Environmental Plan 2000 identifies generic objectives for development within the municipality, and within business zones, as following:

*"The objectives of the Plan in relation to employment are as follows:*

- (a) to ensure the sustainable growth of Leichhardt's economy by retaining existing employment uses and fostering a range of new industrial and business uses to meet the needs of the community,*
- (b) to reinforce and enhance the role, function and identity of established business centres by encouraging appropriate development and to ensure that surrounding development does not detract from the function of these centres,*
- (c) to integrate residential and business development in business centres,*
- (d) to ensure that buildings to be used for employment are appropriately located and designed to minimise the generation of noise, traffic, car parking, waste, pollution and other adverse impacts, to maintain the amenity of surrounding land uses, and avoid harm to the environment,*
- (e) to ensure the continuation of commercial port uses and railway uses,*
- (f) to allow a range of water-based commercial and recreational facilities in waterfront areas in order to retain the visual diversity and maritime character of the area,*
- (g) to ensure non-residential development in residential zones does not detract from the function of the established business centres."*

However, the site specific controls prescribed in Part 3(2) of the Leichhardt Local Environmental Plan 2000 detailed below identify more precise outcomes which are desired as a consequence of the proposal. These site specific objectives are as follows:

- "(a) the development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling,*
- (b) the development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity,*
- (c) the development is well designed with articulated height and massing providing a high quality transition to the existing streetscape,*
- (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,*

- (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."*

Given that a major component of the development is the bridge, and that this impacts directly on the Public Purpose Zone, it is also considered necessary to have regard to the performance of the development in regard to the Objectives pertinent to that zone prescribed in Clause 29 of the Leichhardt Local Environmental Plan 2000. These state as follows:

*"The objectives of the Plan in relation to community uses are to facilitate the equitable provision and improve the range, quality and distribution of community and cultural facilities and services to meet the needs of residents, workers and visitors."*

**3. *Is compliance with the standard consistent with the aims of the Policy? Does compliance with the standard hinder the object of the Act under s5a(i) and (ii)***

The objectives set down in Section 5(a)(i) and (ii) are as follows:

*"(a) to encourage*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, 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..."*

Compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Act, as demonstrated by reference to the discussions within this report.

As discussed elsewhere in this report:

- The proposal does not satisfy the zone, site specific and development standard objectives, and it has not been demonstrated that strict compliance with the standard is not required in order to achieve compliance with the objectives;
- The proposal will have unacceptable impacts upon the amenity of adjacent properties; and
- It has not been demonstrated that the future occupants and tenants of the site will have satisfactory amenity.

It has not been demonstrated that strict compliance with the development standard is not required in order to minimise adverse impacts, that strict compliance would result in an inflexible application of policy, or that the development as proposed is consistent with the provisions of orderly and economic development.

**4. Is compliance with the standards unreasonable or unnecessary in the circumstances of the case?**

**SEPP 1 Objection Floor Space Ratio:** The applicant's State Environmental Planning Policy No. 1 Objections provide the following reasons in support of a variance in the total Floor Space Ratio breach, retail Floor Space Ratio breach and residential Floor Space Ratio breach:

*"A development strictly complying would not necessarily result in a significant reduction in building bulk, height or scale or traffic generation. In fact strict compliance with the standard may not result in any actual change to the bulk, scale, visual massing, height and appearance of the development. Reductions in the GFA could occur by reducing the ancillary GFA below ground level and also by reducing some of the GFA above ground level without reducing the height of the development, without reducing the net letable floor space of the commercial components, without reducing the number of residential units and without reducing the overall bulk of the development. Such a reduction would serve to achieve compliance with the numerical standard to the detriment of the amenity of proposed development but without any discernible benefit to the amenity of adjacent properties."*

Comment: As noted above, the ancillary floor space of the development is 3826m<sup>2</sup>. The ancillary floor space ratio referred to above is made up of plant rooms, residential store rooms and areas, pedestrian circulation space adjacent to lift shafts, stairwells (partially included i.e. half the stair), passageways, lift shafts (one level only) and travelators (partially included), on-site detention storage tank, club storage room, garbage storage rooms, the loading dock area, substation, switch room and fire control room. Contrary to the argument above, this ancillary floor area can not simply be deleted or substantially reduced as these elements are essential to the operation of the development. Therefore, the suggestion that this floor area could be eliminated and yet the development proposed above ground level will remain exactly the same or not significantly different is erroneous. The deletion or substantial reduction of 3826m<sup>2</sup> of critical floor area could not occur in isolation without consequences for the above ground gross floor area outcome. Nor can the development function without basement carparking, which, due to its inherent design nature, will include areas constituting gross floor area under the Leichhardt Local Environmental Plan 2000.

*"Compliance with the FSR control is unreasonable given the proposal as amended complies with the site specific building envelopes. It is noted that the site specific envelopes were developed after an exhaustive master planning process in which Council strategic and statutory planning officers, Council engineers and Council commissioned independent technical experts were instrumental in. It is also noted that the drafting of the site specific building envelopes involved public exhibition. (NB: The development complies with the building height control as expressed as an RL)."*

Comment: The proposal does not comply with the building envelope control to Victoria Road. Furthermore, building envelope is a gross planning tool to be implemented in association with the objectives of the Leichhardt Local Environmental Plan 2000 as refined by the specific provisions of the Leichhardt

Development Control Plan 2000. These emphasise that the desired building outcome was intended to be one of “articulated height and massing” and to provide an “iconic landmark development through high quality design, the use of innovative architectural forms, and high quality materials and finishes”. This suggests that simple compliance with the building envelope is not itself an objective of the instrument, but rather, one of a number of tools aimed at achieving high quality urban design. It is Council’s contention that even if the development complied fully with the building envelope across the entirety of the site, which is not currently the case with this proposal, this would not necessarily justify breaches of the floor space ratio.

As previously noted, concern is also raised regarding the inappropriate three storey form, design and appearance of the western Darling Street infill, as well as the access and design of the pedestrian bridge resulting in an element that is unsympathetic and uncharacteristic in this area, that has a poor interface with the public plaza, that will potentially erode the character and sense of place of the school and that is unlikely that the bridge will present as an attractive and easy alternative access from Darling Street east to the site. The bridge falls outside the building envelope control to Victoria Road, and this breach is not supported for reasons previously identified.

*“Compliance with the standard would not necessarily result in improved outcomes in terms of residential amenity for adjoining properties. A development of the same scale and bulk could be achieved by a development totally compliant with the maximum Floor Space Ratio standard for the site.”*

Comment: Assuming an amended design which satisfies floor space ratio whilst accommodating all of the gross floor area requirements of a mixed development (inclusive of ancillary floor area), it is likely that such a design would result in reduced massing as a portion of this gross floor area would inevitably be contained within basement floor levels, which then can translate into improved outcomes for the amenity of adjoining properties.

In particular, impacts on neighbouring properties in Waterloo Street and shop-top flats along the northern side of Darling Street, could be further ameliorated.

*“Compliance with the standard would not necessarily alter the proposed building siting, form and mass. A large portion of the Gross Floor Area referred to as ‘ancillary’ which is proposed to be located predominantly below ground level could be deleted to lessen the total Gross Floor Area but without any change to the building siting, form or mass. Similarly, sections of the residential floor space and retail floor space could be reduced (in order to comply with the Floor Space Ratio development standard) without reducing the noticeable change to the scale and built form of the development.”*

Comment: This is a reiteration of the first argument. Whilst the height and tower form could be retained, a reduction in residential and retail floor space would have to result in a reduction in the massing of these two components, including slimmer tower elements.

*“Reduction in the ancillary floor space, residential floor space and retail floor space could be undertaken in order to achieve compliance with the numerical*

*development standard without reducing the actual number of retail tenancies or residential units and without consequence to the impacts of the proposal (e.g. without effecting matters such as overshadowing, traffic generation or visual massing)."*

Comment: Whilst the quantum of retail and residential units might be able to be retained, reduction in floor space ratio is likely to result in smaller units. This would have consequences for a number of factors, including parking demand and traffic generation. This argument also does not examine the possibility of reducing other floor space uses such as the commercial component.

*"Compliance with the standard would not alter the relationship of the proposed building with the orientation and pattern of surrounding buildings."*

Comment: Noted, but it is unclear as to how this relates to the objectives of the floor space ratio controls.

*"The proposed development results in a series of buildings at the site which is comparable to the building arrangement described in detail in Council's site specific built form controls for the site. The buildings are in the locations and are of the heights and setbacks that are outlined in Council's DCP controls for the site. The additional floor space that the development seeks a variation for is below ground level. The above ground level floor space is commensurate with the above ground floor space that would be achieved if any proposal was to develop the site in accordance with Council's built form controls as illustrated in Part D1.5 and Figures 5.1 and 5.2 in Part D of Council's DCP. The floor space proposed is a floor space that can be achieved by designing buildings in accordance with Council's built form controls. The below ground floor space serves only to allow for basic auxiliary functions and utilities for those buildings."*

Comment: The envelope and height controls are gross measures which are required to be implemented in a manner which achieves the objectives. As indicated above, Council does not consider that the objectives are met.

*"The amended DA is commensurate with the traffic generation 'budget' of vehicular movements set out in the traffic and parking report and modelling commissioned by Council (and prepared by ARUP) with respect to development at the site."*

Comment: The traffic generation budget is required to be applied in conjunction with the specific principals of Part D1.10 of the Leichhardt Development Control Plan 2000 – Access and Management, which requires development to "minimise the impact of additional vehicular movements in surrounding residential streets, in particular heavy vehicles." Furthermore, parking is restricted by the Leichhardt Development Control Plan 2000 regardless of any assumed "traffic budget". It is further noted that there is a lack of information regarding the operation and proposed functioning of various uses of the project and adequate traffic related analysis, and that proposed car parking provision exceeds that required by the site specific controls of the Leichhardt Development Control Plan 2000.

Council contends that traffic and car parking issues of this development are not in accordance with the requirements of the Leichhardt Development Control Plan 2000. This is detailed later in this report.

*"The proposal also complies with the "Access", "Traffic Management" and "Parking" requirements of Council's site specific DCP."*

Comment: Part D1.10 identifies nine controls pertinent to access and management. As discussed later in this report, the proposal does not meet a number of controls of this part, including those relating to the Traffic Management Plan and the requirement that "access, vehicle circulation, parking, un/loading and service areas are to be wholly separated for residential and non-residential uses".

With regard to car parking, the proposal does not comply with the site specific controls of the Leichhardt Development Control Plan 2000 (see later assessment).

*"The proposal complies with the objectives of the Floor Space Ratio control."*

Comment: Having regard to the above, Council cannot concur that the application complies with the objectives of the Floor Space Ratio controls.

**SEPP 1 Objection – Number of Storeys:** The applicant's State Environmental Planning Policy No. 1 Objection provides the following reasons in support of a variance in the number of storeys breach:

*"A development strictly complying would not result in a significant reduction in bulk and scale impacts. In fact strict compliance with the standard may not result in any actual change to the height of the subject building as the building in question could be developed to the exact same building height (i.e. RL82.00)."*

Comment: A reduction in Floor Space Ratio as discussed previously, could result in slimmer buildings whilst retaining the maximum height of RL82AHD. This would result in a reduction in bulk and scale and amenity impacts.

*"Thirteen (13) storeys have been achieved within Building A of the proposal while maintaining a floor to ceiling height of 2.7m for all residential units per the requirements of the State Environmental Planning Policy No. 65 Residential Flat Design Code as well as satisfying Council's structural engineering requirements (refer to amended DA drawing DA100). In addition Building A will achieve a good to high level of internal amenity in terms of natural ventilation and solar access and the development complies with the guidelines of the Residential Flat Design Code in that respect. Strict compliance with the standard is not required to achieve a good, or a better level, of internal amenity."*

Comment: As discussed previously in this report, the proposal does not comply with a number of provisions of State Environmental Planning Policy No. 65 / Residential Flat Design Code, including in terms of solar access and floor-to-ceiling heights to various apartments. These non-compliances are not

supported. A development compliant with the number of storeys requirement provides greater scope to achieve compliance with the requirements of State Environmental Planning Policy No. 65.

*“Compliance with the storeys component of the height control is unreasonable given the proposal complies with the built form controls and building envelopes (including height as expressed as a RL) as outlined in the site specific DCP provisions.”*

Comment: A redesign could result in slimmer buildings whilst retaining the maximum height of RL82AHD, with a consequent reduction in bulk and scale and amenity impacts.

*“Compliance with the standard would not result in any significant amenity improvements for adjoining properties in terms the effect of a reduction of GFA associated with the loss of one storey in Building A. Specifically it is noted that other parts of the site are not proposed to be fully developed in accordance with height and building envelope controls. Any floor space (and residential units) that might be lost in achieving compliance with the numerical standard for Building A could be regained by fully developing other parts of the site in accordance with the site specific LEP and DCP controls.”*

Comment: Council has not been provided with any evidence demonstrating why a compliant development should not be pursued and could not result in a development designed to satisfy all the provisions of the site specific controls of the Leichhardt local Environmental Plan 2000 and Development Control Plan 2000.

*“Compliance with the standard would not increase views or vistas from adjoining properties.”*

Comment: There is nothing in the site specific controls of the Leichhardt Development Control Plan 2000 that identifies this as an objective.

*“Compliance with the standard would not alter proposed building siting, form and mass.”*

Comment: As discussed above, this is not concurred with in terms of building massing.

*“Compliance with the standard would not alter the relationship of the proposed building with the orientation and pattern of surrounding buildings.”*

Comment: It is unclear as to how this relates to the objectives of the number of storeys control.

*“The proposal complies with the objectives of the height control.”*

Comment: Having regard to the above, Council can not concur that the application complies with the objectives of the number of storeys development standard.

**SEPP 1 Objection Floor Space Ratio:** The applicant's State Environmental Planning Policy No. 1 Objections to Floor Space Ratio non-compliances also make the following argument:

*“Comments detailed in Council’s letter dated 29 September 2009 with regard to the exclusion of loading dock areas from Gross Floor Area calculations during the drafting of the Amendment 16 to the Leichhardt Local Environmental Plan 2000 do not clearly demonstrate that Council did, or intended to, include loading dock areas in Gross Floor Area and therefore within Floor Space Ratio calculations.*

*It is noted also that Council is silent on whether other below ground level ancillary floor space (such as plant rooms, stairs, storage areas, etc) were included in the Gross Floor Area calculations when preparing the Floor Space Ratio development standards for the site.*

*In fact it appears that this was not the case, given that the adopted above ground building envelopes, if built to comply, would achieve density levels commensurate with the actual adopted Floor Space Ratio standards.*

*Further, there is documented evidence that throughout the ‘master planning’ process that informed Amendment 16 to the Leichhardt Local Environmental Plan 2000 and also the site specific Part of the Development Control Plan, Council excluded below ground areas such as the loading dock from Gross Floor Area calculations.*

*It is therefore maintained that the proposal as amended complies with the Floor Space Ratio for the site as it was calculated during the preparation of the site specific Leichhardt Environmental Plan and Development Control Plan. Specifically, Council, in determining an appropriate density for the site during the preparation and drafting of the site specific controls, relied on a definition for Gross Floor Area, and therefore method of calculating density, that differs from the current Leichhardt Local Environmental Plan 2000 definition for Gross Floor Area. At the time the Council considered that ancillary and all non-commercial and non-retail floor space below ground level, as contained in the basement levels, would not be floor space for the purposes of calculation under the Local Environmental Plan. The site specific Floor Space Ratio development standard was consciously drafted by the Council so as not to include space occupied by areas such as loading areas, storage areas, plant and equipment areas etc.*

*The difference in definitions/calculations associated with the amended development application relates only to the areas of the basement car parks, such that the area around the lift cores and travelators, the area for storage, plant and loading/unloading were excluded from Gross Floor Area, by the Council, for the purpose of calculating an appropriate site Floor Space Ratio during the drafting of the controls.*

*Upon adoption of the controls, basement storage areas, plant etc are now included in the Gross Floor Area calculations which distorts the Floor Space Ratio.*



*To this end it is maintained that the proposal as amended complies with the FSR as it was calculated during the drafting process."*

The applicant also argues that were the definition of gross floor area under the Standard Instrument to be applied the development would comply. The applicant's argument is presented as follows:

*"The exclusion of floor space from Gross Floor Area calculations that is not actually contributing to building bulk, scale, height and traffic generation, is entirely consistent with the approach and definition in the NSW Standard Instrument – Principal Local Environmental Plan. In the Standard Instrument gross floor area is defined as follows:*

*"gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
  - (i) storage, and*
  - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and*
  - (j) voids above a floor at the level of a storey or storey above."*

Comment: The applicant is correct in suggesting that the proposed FSR is generally in accordance with the scale of development considered during the course of developing the amendment to LEP 2000 – which facilitates the current application. A review of Council documents indicates that the FSR was miscalculated during the lead up to Council's August 2007 decision. This miscalculation was carried over into subsequent Council decisions.

Notwithstanding the above, the definition of gross floor area of the Leichhardt Local Environmental Plan 2000 is that which was in the gazetted Instrument at the time Amendment 16 was gazetted, and this definition was in no way altered to accommodate the proposal. It was certainly within the scope of Amendment 16 to contemplate changing the definition as part of the site specific controls, however, it did not. Therefore, the definition of gross floor area as per the Leichhardt Local Environmental Plan 2000 applies.

The definition of gross floor area in the Standard Instrument is not applicable to this site. The Leichhardt Local Environmental Plan 2000 prevails. It was presumably within the scope of Amendment 16 to adopt the definition of the Standard Template.

Consideration of the application against the site specific controls prescribed in Part 3(2) of the Leichhardt Local Environmental Plan 2000 as well as Clause 29 of this Plan has resolved that the proposal as submitted has not demonstrated that:

- It will contribute to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity in accordance with Part 3(2)(b) of the Plan;
- It is well designed with articulated height and massing providing a high quality transition to the existing streetscape in accordance with Part 3(2)(c) of the Plan;
- 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 in accordance with Part 3(2)(d) of the Plan; and
- Community facilities will be improved to meet the needs of residents, workers and visitors in accordance with Clause 29 of the Plan.

*5. Is the objection well founded?*

For the numerous reasons outlined in the aforementioned, and for other reasons contained throughout this report, Council is unable to concur that the State Environmental Planning Policy No. 1 Objections to all and any of the floor space ratio breaches, and to the number of storeys breach, are well-founded.

**Leichhardt Local Environmental Plan 2000 - Clauses**

The proposal has been considered against the following clauses listed below:

- Clause 12 – Vision of Plan;
- Clause 13 – General Objectives;
- Clause 15- Heritage Conservation;
- Clause 16(1)-(3) – Heritage Items;
- Clause 16(6) – Use of a Heritage Item;
- Clause 16(7) – Development in the Vicinity of a Heritage Item;
- Clause 16(8) – Conservation Areas;
- Clause 17 – Housing Objectives;
- Clause 20 – Employment Objectives;
- Clause 29 – Public Purpose;
- Clause 36 – Additional Uses and Controls for Certain Land; and
- Clause 38 – Development on Public Roads.

The application is not considered to be satisfactory with respect to the objectives of Clauses 12, 13, 15, 16(2), 16(6), 16(7), 16(8), and 29 listed above. These issues are discussed in the following:

*Clause 12 - Vision of the Plan*

The vision of the Plan is to conserve and enhance the quality and diversity (social and physical) of the natural, living, working and leisure environments of the local government area of Leichhardt. The protection of the amenity of residents should be pre-eminent.

Due to the various concerns raised in this report, including traffic, parking, inadequate solar access, urban design and lack of detailed information and assessment on the operation and proposed functioning of various uses of the project, Council is of the opinion that the objective of this clause has not been met.

*Clause 13 - General Objectives*

The general objectives of Clause 13 read as follows:

- (1) The general objective for ecologically sustainable development is to encourage the incorporation of the principles of ecologically sustainable development in the design and management of the built and natural environment to:*
  - (a) provide for the preservation of natural resources to ensure their availability for the benefit of future generations, and*
  - (b) minimise negative impacts of urban development on the natural, social, physical and historical environment, and*
  - (c) maintain and enhance the quality of life, both now and for the future.*
- (2) The general objective for the built and natural environment and amenity is to encourage the design of buildings, structures and spaces which are compatible with the character, form and scale of the area to:*
  - (a) protect and enhance the area's natural features, character and appearance, and*
  - (b) protect, conserve and enhance the area's heritage, and*
  - (c) provide an environment meeting the principles of good urban design, and*
  - (d) maintain amenity and contribute to a sense of place and community, and*
  - (e) provide an environment which is visually stimulating, while being easy to manage and maintain, and*
  - (f) provide adequate access and linkages to public open space, and*
  - (g) accommodate the existing and future needs of the locality concerned, and*
  - (h) protect and conserve ecologically sensitive land, particularly that which is visually exposed to the waters of Sydney Harbour and the Parramatta River and of natural or aesthetic significance at the water's edge.*
- (3) The general objective for transport and access is to encourage the integration of the residential and non-residential land uses with public and private transport and improve access to:*
  - (a) reduce the need for car travel and subsequent pressure on the existing*

- road networks, and*
  - (b) maximise utilisation of existing and future public transport facilities, and*
  - (c) maximise the opportunity for pedestrian and cycle links, and*
  - (d) identify and ameliorate adverse impacts of all transport modes on the environment, and*
  - (e) improve road safety for all users, particularly pedestrians and cyclists.*
- Leichhardt Local Environmental Plan 2000*

The generic objectives above are reinforced in a more specific form by the controls and objectives implemented through the site specific controls.

Due to the environmental, urban design, amenity and traffic and parking concerns raised throughout this report, the proposal does not meet the objectives of Clauses 13(1), (2)(a)-(e), 2(g), (3)(a)-(b) and 3(d)-(e) of the Leichhardt Local Environmental Plan 2000.

#### *Clause 15 – Objectives*

The objectives of the Plan in relation to heritage conservation are as follows:

- (a) to protect, conserve and enhance the cultural heritage and the evidence of cultural heritage, including places, buildings, works, relics, townscapes, landscapes, trees, potential archaeological sites and conservation areas, and provide measures for their conservation,*
- (b) to protect, conserve and enhance the character and identity of the suburbs, places and landscapes of Leichhardt, including the natural, scenic and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, surface rock, remnant bushland, ridgelines and skylines,*
- (c) to prevent undesirable incremental change, including demolition, which reduces the heritage significance of places, conservation areas or heritage items,*
- (d) to allow compatible and viable adaptation and re-use of the fabric of heritage significance,*
- (e) to ensure the protection of relics and places of Aboriginal cultural significance in liaison with the Aboriginal community.*

This clause applies in regard to the design of the infill buildings proposed on the Darling Street frontage of the site, and with regard to the pedestrian bridge, as it sits within the perimeter of the heritage conservation area on the Rozelle Public School site. A heritage assessment of these components has been carried out which has concluded that these aspects will have a detrimental impact on the Rozelle Conservation Area and heritage items in the visual catchment in the vicinity, and are not supportable in their current form. On the basis of the above, it is not considered that the proposal meets the objectives of Clause 15(a)-(c) of the Leichhardt Local Environmental Plan 2000.

#### *Clause 16 - Heritage Items*

Clause 16 of Local Environmental Plan 2000 reads as follows:

- (1) Consent is required for all development on the site of a heritage Item.*
- (2) Consent must not be granted for any development in respect of a heritage item*

*unless the consent authority has assessed a statement that:*

- (a) describes the significance of the heritage item as part of the environmental heritage of Leichhardt, and*
- (b) addresses the extent of the impact of the development on the conservation and heritage significance of the item in terms of:*
  - (i) its fabric,*
  - (ii) the age of the building or structure,*
  - (iii) any stylistic or horticultural features of its setting,*
  - (iv) any potential for archaeology,*
  - (v) any historic subdivision pattern in the vicinity, and*
- (c) sets out any steps to be taken to mitigate any adverse impact of the proposed development on the environmental heritage of Leichhardt*

As previously noted, the bridge will encroach over the adjoining Rozelle Public School site, which is a listed heritage item under the Leichhardt Local Environmental Plan 2000. A Heritage Impact Statement has been prepared and submitted in accordance with Clause 16(2) of the Leichhardt Local Environmental Plan 2000.

As previously noted, a heritage assessment of the bridge has been carried out above under State Environmental Planning Policy No. 65 considerations, which has concluded that this aspect is not considered characteristic or sympathetic to the area and school site and results in visual erosion of the school's curtilage.

#### *Clause 16(6) - Use of a Heritage Item*

Clause 16(6) of Local Environmental Plan 2000 reads as follows:

*Nothing in the Plan prevents consent from being granted for the use of a heritage item for any purpose, if the consent authority is satisfied that:*

- (a) the proposed use would not adversely affect the heritage significance of the item, and*
- (b) the proposed use will ensure the conservation of the heritage item, where it is a building, and*
- (c) the amenity of the area will not be adversely affected.*

As previously noted, a heritage assessment of the bridge has been carried out above under State Environmental Planning Policy No. 65 considerations, for reasons provided under this assessment, this component will not comply with the objectives of Clause 16(6)(a) and (c) of the Leichhardt Local Environmental Plan 2000.

#### *Clause 16(7) - Development in the vicinity of a heritage item*

Pursuant to Clause 16(7) of Local Environmental Plan 2000:

*Consent must not be granted for development on land in the vicinity of a heritage item, unless the consent authority has made an assessment of the effect the carrying out of that development will have on the heritage significance of the heritage item and its setting as well as on any significant views to and from the heritage item.*

For the reasons discussed previously the proposal will have a detrimental impact on the adjoining Rozelle Public School site and other heritage items in the visual catchment, and is not considered to meet the objectives of Clause 16(7) of the Leichhardt Local Environmental Plan 2000.

#### *Clause 16(8) - Conservation Areas*

Pursuant to Clause 16(8) of Local Environmental Plan 2000:

*Consent must not be granted for the demolition, reconstruction, adaptation or erection of a building, the carrying out of a work, or the subdivision of land, within a conservation area unless the consent authority has made an assessment of the extent to which the carrying out of the development would affect the heritage significance of the conservation area, with particular regard to:*

- (a) the heritage significance of any building, work, relic, tree or place, archaeological site or potential archaeological site or aboriginal site that would be affected, and the contribution it makes to the conservation area, and*
- (b) the compatibility of the proposed development with the conservation area, including the size, form, scale, orientation, siting, materials, landscaping and details of the proposed development.*

For the reasons discussed previously the proposal will have a detrimental impact on the Conservation Area and is not satisfactory with respect to this clause.

#### *Clause 17 – Housing Objectives*

Pursuant to Clause 17 of Local Environmental Plan 2000:

*The objectives of the Plan in relation to housing are as follows:*

- (a) to provide development standards to ensure that the density and landscaped areas of new housing are complimentary to and compatible with the style, orientation and pattern of surrounding buildings, works and landscaping and to take into account the suite of controls in Leichhardt Development Control Plan 2000 to achieve the desired future character,*
- (b) to provide landscaped areas that are suitable for substantial tree planting and of a size and location suitable for the use and enjoyment of residents,*
- (c) to provide for a minimum residential allotment size in order to protect the area's diverse subdivision pattern and to ensure the orderly and economic use and development of residential land,*
- (d) to provide a diverse range of housing in terms of size, type, form, layout, location, affordability, and adaptability to accommodate the varied needs of the community, including persons with special needs,*
- (e) to improve opportunities to work from home.*

The above clause is considered to have been superseded by the site specific controls of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000, and an assessment of the proposal against these controls is undertaken later in this report.

#### *Clause 20 - Employment*

These controls are considered to have been superseded by the site specific controls prescribed in Part 3(2) of the Leichhardt Local Environmental Plan 2000, which identify more precise outcomes which are desired as a consequence of the proposal. As previously noted, the proposal is not considered to comply with a number of controls of Part 3(2) of the Leichhardt Local Environmental Plan 2000.

### *Clause 38 - Development on Public Roads*

Pursuant to Clause 38 of Local Environmental Plan 2000:

- (1) A person must not carry out development on a public road shown uncoloured on the Zoning Map, or part of such a road lawfully closed, without the development consent of the consent authority.*
- (2) The consent authority may grant its consent under subclause (1) only for a purpose that may be carried out either with or without development consent on land adjoining that road.*
- (3) Despite subclauses (1) and (2), the following development may be carried out without the consent of the consent authority on a public road shown uncoloured on the Zoning Map or part of such a road lawfully closed:*
  - (a) Council development for the purposes of minor improvements to footpaths, such as landscaping and repaving, drainage, street resurfacing and the reconstruction of kerbs, footpaths, gutters and the like,*
  - (b) exempt or complying development as described under clause 6,*
  - (c) development for which approval has been granted under Part 1 of Chapter 7 of the Local Government Act 1993.*

The application is satisfactory in this regard.

### Leichhardt Local Environmental Plan Part 3 Amended controls on specific sites

The site specific controls of Local Environmental Plan 2000 relating to this proposal are as follows:

- (2) Despite any other provision of this Plan (except clause 19 (6) and (7) or a provision of this Part), consent may be granted for mixed use development on the site, but only if, in the opinion of the Council, the following objectives are met:*
  - (a) the development integrates suitable business, office, residential, retail and other uses so as to maximise public transport patronage and encourage walking and cycling,*

Comment: The application has been amended several times and now incorporates a reasonable mix of uses. Previous plans nominated an excessive number of restaurants which would have had implications for traffic generation, parking demand and the ongoing financial stability of the existing Main street.

- (b) the development contributes to the vibrancy and prosperity of the Rozelle Commercial Centre with an active street life while maintaining residential amenity,*

Comment: The application has provided five pedestrian access points from Darling Street, Victoria Road and Waterloo Street, directly into the plaza and the shopping level immediately below the plaza. The links from the plaza to Darling Street, Waterloo Street and Victoria Road are well designed and easily identified and accessible



However, previous retail impact assessments were predicated on an assumed mix of retail and restaurant uses, complementing, and to some extent competing with, the Rozelle main street shopping strip. There have been no further studies which have adequately addressed the retail impact on the main street of the actual proposal currently under consideration. Also, there is a lack of detailed information and assessment on the operation and proposed functioning of various uses of the project, and whether various amenity tests will be achieved e.g. traffic, privacy etc. In this regard, it is not possible to determine whether the amenity test identified above has been fully satisfied.

*(c) the development is well designed with articulated height and massing providing a high quality transition to the existing streetscape,*

Comment: It is not considered that the Darling Street infill building satisfies this test. The elevational treatment and the height and form are wholly inconsistent with the building heights, forms and detailing strongly represented in this 19<sup>th</sup> century streetscape, which is encompassed within the Conservation Area of Rozelle.

*(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,*

Comment: Council's Traffic Engineers have repeatedly raised concern regarding the lack of an adequate detailed analysis of the impact of the development on the surrounding road network and associated intersections, and that an analysis needs to be undertaken to include revised traffic generation and distribution associated with the current development. A detailed assessment of the traffic impacts of the development is undertaken under the site specific Development Control Plan 2000 assessment later in this report.

The traffic assessments commissioned have determined that the traffic generated by the development will have acceptable impacts on the surrounding street network during the week. Numerically, traffic numbers on Saturdays are no higher than the Thursday evening peak, which is used as the benchmark for the acceptability for traffic movements within the surrounding street networks. However, parking restrictions, loading bay operations etc. differ on weekends, and there is the complication of the additional attractor of Rozelle Market and Orange Grove market which create different journey and parking demands on weekends than during the week.

Finally, it is noted that Leichhardt Council has commissioned further investigation into Saturday morning traffic movements.

*(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.*

Comment: The application satisfies this objective.

*(3) A consent under subclause (2) must not be granted if the application for the development does not apply to the whole of the site.*

The proposal relates to the whole site, and therefore, complies with this part.

#### **4.4 Draft Environmental Planning Instruments**

No Draft Environmental Planning Instruments applicable to the subject application.

#### **4.5 Development Control Plans**

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt Development Control Plan 2000;
- Leichhardt Development Control Plan No. 32 – Design for Equity of Access;
- Leichhardt Development Control Plan No. 36 – Notifications;
- Leichhardt Development Control Plan No. 38 – Waste; and
- Leichhardt Development Control Plan No. 42 – Contaminated Land Management.

The proposal can be conditioned to comply with the provisions of the Leichhardt Development Control Plan Nos. 38 and 42, however, does not comply with the objectives of a number of controls of the Leichhardt Development Control Plan 2000 and Leichhardt Development Control Plan No. 32. An assessment under the Leichhardt Development Control Plan 2000 and Leichhardt Development Control Plan No. 32 is undertaken below.

#### ***Leichhardt Development Control Plan 2000***

The proposal has been assessed against the following provisions of the Development Control Plan 2000:

- Part A1.0 – General Information;
- Part A2.0 – Urban Framework Plans;
- Part A3.0 – Principles of Ecological Sustainable Development;
- Part A3a.0 – Sustainable Water and Risk Management;
- Part A4.0 – Urban Form and Design;
- Part A5.0 – Amenity;
- Part A6.0 – Site Analysis;
- Part A7.0 – Heritage Conservation;
- Part A8.0 – Parking Standards and Controls;
- Part A9.0 – Advertising and Signage;
- Part 9a.0 – Colours and Tones;
- Part A10.5.5 – Rozelle Commercial Neighbourhood;
- Part B1.1 – Demolition, Site Layout, Subdivision and Design;
- Part B1.2 – Building Form, Envelope and Siting;
- Part B1.3 – Car Parking;
- Part B1.4 – Site Drainage and Stormwater Control;
- Part B1.5 – Elevation and Materials;
- Part B1.6 – Front Gardens and Dwelling Entries;
- Part B1.7 – Fences;
- Part B1.8 – Site Facilities;
- Part B2.8 – Landscaping;
- Part B3.1 – Solar Access;

- Part B3.2 – Private Open Space;
- Part B3.3 – Visual Privacy;
- Part B3.4 – Access to Views;
- Part B3.5 – Acoustic Privacy;
- Part B4.7 – Diverse and Affordable Housing;
- Part C1.1 - Site Layout and Building Design;
- Part C1.2 – Parking Layout, Servicing and Manoeuvring;
- Part C1.3 – Landscaping;
- Part C1.4 – Elevation and Materials;
- Part C1.5 – Site Facilities;
- Part C1.6 – Shopfronts;
- Part C1.7 – Protective Structures in the Public Domain – Balconies, Verandahs and Awnings;
- Part C2.0 – Ecologically Sustainable Non-Residential Development;
- Part C2.1 - Site Drainage and Stormwater Control;
- Part C2.2 – Energy Efficient Siting and Layout;
- Part C2.3 – Building Construction, Thermal Mass and Materials;
- Part C2.4 – Solar Control, External Window Shading and Internal and External Lighting;
- Part C2.5 – Insulation;
- Part C2.6 – Ventilation;
- Part C2.7 – Space Heating and Cooling;
- Part C2.8 – Using Solar Energy;
- Part C2.9 – Appliances and Equipment;
- Part C3.0 – Interface Amenity;
- Part C3.1 – Noise and Vibration Generation;
- Part C3.2 – Air Pollution;
- Part C3.3 - Water Pollution;
- Part C3.4 – Working Hours;
- Part C4.1 – Home Based Employment;
- Part C4.5 – Public Domain;
- Part C4.9 – Licensed Premises;
- Part D1.0 – Site Specific Controls - Balmain Leagues Club Precinct
  - Part D1.1 – Land to Which this Land Applies;
  - Part D1.2 - Background;
  - Part D1.3 - Relationship with Other Standards Contained within this DCP;
  - Part D1.4 - General Objectives;
  - Part D1.5 - Layout and Massing;
  - Part D1.6 – Land Use;
  - Part D1.7 – Building Language;
  - Part D1.8 – Development Within the Conservation Area;
  - Part D1.9 – Public Domain and Central Plaza Area;
  - Part D1.10 – Access and Management;
  - Part D1.11 – Traffic Management; and
  - Part D1.12 – Parking.

## Part A – General Information

### *Part A3.0 - Principles of Ecologically Sustainable Development*

The principles of Ecologically Sustainable Development provide a broad framework of planning and design controls for all uses, and aim to achieve a more ecologically

responsible design of the built and natural environment. Integration of the principles of Ecologically Sustainable Development into urban design and management could make a significant contribution to the less wasteful use of natural resources. Sustainable design seeks to minimise the negative effects of urban development on the natural environment and embrace energy efficient buildings, 'clean' technology and 'green' management practices. It aims to achieve more conservative use of resources so that they can be harvested at a sustainable rate that allows for healthy regeneration. Sustainable design seeks to ensure that natural resources are replenished and available to support future generations rather than being depleted. Council's development controls require energy efficient design for new buildings, encourage good-quality landscaping, aim to increase open space, reduce the negative social and environmental impetus of traffic and create a pedestrian friendly and diverse urban environment.

The applicant has incorporated a number of Ecologically Sustainable Development initiatives, however, the Design Review Panel is concerned that the overall performance of the proposal, particularly in regard to the buildings fronting Victoria Road which have large glazed facades, is not satisfactory. Concern has been expressed that the amount of glazing may result in significant thermal loads, resulting in for example, a high reliance on air conditioning.

*Parts A3a.0, B1.4 and C2.1 – Sustainable Water and Risk Management, Site Drainage and Stormwater Control – Residential and Site Drainage and Stormwater Control - Commercial*

These controls stipulate on-site drainage and stormwater controls relating to a development.

Council's Engineers note that the following stormwater issues previously raised remain outstanding:

- Survey details of the existing Victoria Road stormwater system are still outstanding. Note that it is likely that the submitted Drains model will need to be revised depending on the results of the survey;
- The stormwater drainage concept plan (SDCP) on Drawing No CI101 CI102, C103 Revision 1 prepared by AECOM dated 18 March 2010 must be amended to address the following issues:
  1. The invert level of each OSD tank and/or discharge control pit must be raised sufficiently to provide a free outlet that is not hydraulically controlled by the receiving drainage system.
  2. Appropriate hydraulic grade line analysis must be undertaken to illustrate that the proposal will not be influenced by backwater effects of the receiving drainage system.
  3. Raise the level of the high early discharge chamber for on site stormwater detention facility 3 such that it is level with the orifice.
  4. A trash screen, fitted with a handle, must be provided adjacent to the outlet in the OSD discharge control pit.

Council's Engineers have confirmed that the above matters could be conditioned in the event of an approval being granted.

#### *Part A5.0 - Amenity*

This part of Development Control Plan 2000 requires reasonable amenity to be ensured to future occupants of new development and maintained to residents in their existing homes.

As discussed throughout this report, the proposal raises a number of amenity concerns, resulting in a development that does not meet the objectives of this Part of the Leichhardt Development Control Plan 2000. The provisions of State Environmental Planning Policy No. 65 / Residential Flat Design Code and the site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 are aimed at achieving an outcome consistent with the above, and therefore, assessment is best linked to those specific criteria.

#### *Part A7.0 – Heritage Conservation*

This part requires development to protect and enhance Leichhardt's heritage and ensure that changes to this heritage take place in an appropriate manner.

As discussed previously, the Darling Street infill and bridge to Victoria Road will have detrimental impacts on the Conservation Area, in particular the Nineteenth century streetscape of Darling Street, and on adjoining and nearby heritages items, including the listed Rozelle Public School site, and therefore, will not meet the objectives of this control.

#### *Part A8.0, B1.3, C1.2 – Car Parking Standards and Controls, Car Parking – Residential, Parking Layout, Servicing and Manoeuvring – Commercial*

These parts of the Development Control Plan provide standards and controls relating to parking provision, including relating to ensuring that access and egress is safe and efficient and that car parking provision has acceptable streetscape impacts.

The site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 are aimed at achieving an outcome consistent with the above, and therefore assessment is best linked to those specific criteria. However, as noted later in this report, the proposal is unsatisfactory with respect to car parking and access and egress related issues.

#### *Part A9.0 – Advertising and Signage*

Part A9.0 of the Leichhardt Development Control Plane 2000 requires that advertising and signage be in keeping with the size, scale, character and architectural treatment of the building to which it is attached or the development with which it is associated, and to design and locate outdoor advertising signs in a manner which conserves the heritage of significant places, protecting and enhancing what is valued about the building or the place.

As outlined in comments pursuant to State Environmental Planning Policy No. 64 the proposal does not meet the objectives of Part A9.0 of the Plan.

#### Part 9a.0 – Colours and Tones

This part aims to provide guidance on the use of colour and tone for new buildings or to change the colour of existing buildings in the commercial distinctive neighbourhoods of Leichhardt, Rozelle and Balmain to ensure that they, amongst other things, complement and be part of the design characteristics of the building and streetscape, encourage earth and 'natural' colours, and avoid large, brightly coloured surfaces and corporate colour schemes.

Refer to Design Review Panel comments under the State Environmental Planning Policy No. 65 assessment previously in this report. The Design Review Panel previously raised concerns regarding the extent of dark tinted glass to Victoria Road, however, this issue has now been resolved.

#### *Part A10.5.5. – Rozelle Commercial Neighbourhood*

The site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 generally supersede these controls.

#### Parts B and C – Residential and Non-Residential Development

##### *Part B1.1 and Part C1.1 - Demolition, Site Layout, Subdivision and Design and Site Layout and Building Design*

These controls aim to ensure that new development integrates well with the locality and respects the streetscape, general built form and character of the area. However, the site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 are considered to supersede these controls.

##### *Part B1.2 – Building Form, Envelope and Siting*

Superseded by site specific controls.

##### *Parts B1.5 and C1.4 – Elevation and Materials*

Superseded by site specific controls.

##### *Part B1.6 – Front Gardens and Dwelling Entries*

Only applies to Waterloo Street dwellings and the Design Review Panel comments apply in this regard.

##### *Part B1.7 – Fences*

This part requires fencing to be designed to complement the architectural styles of the area.

The only fencing relevant to this part of the Leichhardt Development Control Plan 2000 is fronting the residential terraces on Waterloo Street. Fencing fronting residential dwellings on Waterloo Street range from low open fencing to high solid walls. The proposed fencing fronting the terraces on Waterloo Street are consistent with the streetscape and will not exceed the height requirements stipulated in the Development Control Plan. Further, the Design Review Panel raised no objection to the proposal in this regard.

#### *Part B1.8 and C1.5 – Site Facilities*

These controls stipulate requirements relating to the location of storage facilities for residential and non-residential uses, requiring that such facilities are integrated into the development and do not detract from the streetscape, are convenient and adequate and comply with the requirements of Council's Development Control Plan No. 38 relating to waste.

The provisions of State Environmental Policy No. 65 / Residential Flat design Code and the site specific controls of the Leichhardt Development Control Plan 2000 are aimed at achieving outcomes consistent with the above, and therefore assessment is best linked to those specific criteria. However, in this regard, the proposal could be conditioned to address any outstanding issues in the event of an approval being contemplated.

#### *Part B3.1 – Solar Access*

The solar access provisions pursuant to State Environmental Planning Policy No. 65 / Residential Flat design Code override these controls, and the proposal will not overshadow adjoining properties contrary to the site specific solar access controls of the Leichhardt Development Control Plan 2000.

#### *Part B3.2 – Private Open Space*

This part provides specific controls relating to size, dimensions and amenity to open space provision for residential dwellings, however, the site specific controls of the Leichhardt Development Control Plan 2000 and the provisions of State Environmental Planning Policy No. 65 / Residential Flat design Code detailed above and below override these controls. Notwithstanding, the application is deemed to be satisfactory with regard to the size, dimension and area requirements for private outdoor space.

#### *Part B3.3 – Visual Privacy*

The visual privacy controls under State Environmental Planning Policy No. 65 and the site specific controls of the Leichhardt Development Control Plan 2000 are aimed at achieving acceptable visual privacy outcomes on the site, and therefore, any visual privacy assessments relating to residential development have been linked to those specific controls.

#### *Part B3.4 – Access to Views*

The proposal will not impact on the views enjoyed by neighbours any greater than envisaged by the site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000.

*Parts B3.5, C3.1 and C3.4 – Acoustic Privacy and Noise and Vibration Generation and Working Hours*

The applicant has submitted a number of acoustic reports, prepared by AECOM in response to Council concerns regarding the acoustic impacts of the development. The latest report is Revision 8 and dated 11 June 2010. The report has been independently reviewed by an acoustic expert from The Acoustic Group on behalf of Council, the review being dated 22 June 2010. In summary, the independent acoustic expert's (or The Acoustic Group's) assessment concluded as follows:

- The AECOM report of 11 June 2010 and their letter dated 17 May 2010 presents the concept that the acoustic report may be considered as a Master Plan and that supplementary Development Applications would be required for the various components;
- As previously advised to Council, the noise targets from Table 3-6 of the June report could be utilised as the overall noise emission limits which use for Waterloo Street the Moodie Street results less 2dB;
- To the levels in Table 3-6, the following adjustments to the overall levels would be applied for the individual components as nominated by AECOM in their letter of 17 May 2010:

Component Area	Area (m <sup>2</sup> )	Adjustment to Criteria
Commercial	1,400m <sup>2</sup>	-13
Club	3,500m <sup>2</sup>	-9
Retail	9,500m <sup>2</sup>	-5
Residential	14,000m <sup>2</sup>	-3

- With respect to any air conditioning associated with the residential component of the development, a condition will be required for such air conditioning plant to be inaudible in any residential dwelling after 10:00pm (to accord with the POEA Regulations);
- There should be a specification that for the period after midnight, noise from the licensed premises must be inaudible in any habitable room of any residence (including residential component of the Rozelle Village);
- As a result of the nominated background level of 36dB(A) for Waterloo Street (Table 3-6 of the June report), the provision of the sleep arousal criterion for the development becomes 51dB(A) when assessed as a L1(1 min) level at any bedroom window. This criterion does not apply to vehicles on public thoroughfares but to any vehicle or activity occurring on the site during the period from 10:00pm to 7:00am Mondays to Saturdays or to 8:00am on Sundays and Public Holidays.

In light of the above, Council's independent acoustic expert considers that the proposal could be conditioned to achieve acceptable noise emissions criteria.



However, as previously noted, there remains a lack of information regarding the operation and proposed functioning of various uses of the project, as well as potential acoustic privacy conflicts between various dwellings. There will also be potential on-going acoustic privacy conflicts between the northern club terraces and adjoining Waterloo Street properties given their orientation and proximity to these adjoining residential properties, as well as between the club terraces and the units adjacent and above. Until these matters are resolved through provision of further information and amendments, it is considered that compliance with the provisions of Parts B3.5 and C3.1 of the Leichhardt Development Control Plan 2000 have not been met.

In terms of working hours, the following working hours are proposed.

- Leagues Club premises – not specified (subject to future Development Application);
- Supermarket and mini major at basement level 1 and the fresh food shop at basement level 2 - 24 hours a day;
- Remaining speciality retail tenancies (including restaurants) - 7.30am to 7.30pm Monday to Friday, 7.30am to 6.00pm Saturday and 8.30am to 6.00pm Sunday;
- Commercial premises - 7.30am to 7.30pm Monday to Friday, 7.30am to 6.00pm Saturday and 8.30am to 6.00pm Sunday; and

It is noted that no hours are nominated for the restaurant components. Council's experience suggests evening trading is to be anticipated.

Council does not support the proposed 24 hour trading for the Club and mini major components due to potential implications for the amenity of surrounding residents. In the event of any approval on the site, Council would only consider contemplating supporting hours similar to like operations at Norton Plaza which does not trade past midnight Monday to Friday and 10:00pm on Saturday and Sunday.

#### *Part B4.7 – Diverse and Affordable Housing*

The proposal meets the diverse housing requirements of the State Environmental Planning Policy, including the minimum requirement for single bedroom dwellings.

#### *Parts B2.8 and C1.3 – Landscaping*

The submitted landscape plans, being Drawings L01I and L02 Issue H, prepared by EDAW / AECOM, are inconsistent with the plans and elevational / sectional drawings under assessment. Examples of inconsistencies include:

- The planter area to the roof to the Plaza Level adjacent to Building B as depicted on Drawing L01I is not identified on the site and roof plans;

- The planter areas to the roof of the club mezzanine and the western planter on Building A as depicted on Drawing L01I are inconsistent with the site and roof plans; and
- The pergolas to the plaza as shown on the floor plans are not depicted on the landscape drawings.

Council's Landscape Assessment Officer does not support the proposed *Callistemon salignus* on the rooftops of the proposed buildings, given the level of medium needed to support the full maturity of these trees. This could be conditioned in the event of any approval being contemplated.

*Parts C1.6 and Part C1.7 – Shopfronts and Protective Structures in the Public Domain – Balconies, Verandahs and Awnings*

Refer to Design Review Panel comments concerning the Darling Street infill.

*Part C2.0 – 2.9 – Ecologically Sustainable Non-Residential Development*

See previous comments. Relevant considerations such as energy efficient fittings and insulation could be the subject of appropriate conditions if required.

*Part C4.9 – Licensed Premises*

Council does not in fact have any current development application for either the Club itself nor any of the restaurants, and is unable to make an informed assessment with regard to the effective management of licensed premises on the site at this time.

Part D.1.0 – Site Specific Controls – Balmain Leagues Club Precinct

*Part D1.3 Relationship with other Standards Contained within this Development Control Plan*

This section of the Development Control Plan applies to the Balmain Leagues Club Precinct only, and is not applicable to any other site(s) within the Area. Development within the Balmain Leagues Club Precinct is subject to the relevant objectives, guidelines and controls contained in Leichhardt Local Environmental Plan 2000, as amended by Amendment No.16, Development Control Plan 2000 as amended by the addition of this section. Where there is a direct conflict between the site specific controls in this section and any other sections of Leichhardt Development Control Plan 2000, this section shall prevail.

*Part D1.4 - General Objectives*

- *To provide a planning and urban design framework that guides the redevelopment of the Balmain Leagues Club Precinct.*

Comment: The proposal raises no issue regarding this test.

- *To enable the redevelopment of the Balmain Leagues Club Precinct as a consolidated parcel.*

Comment: The proposal raises no issue regarding this test.

- *To encourage well designed development with articulated height and massing.*

Comment: There are several concerns regarding whether the development encourages well designed built forms with articulated height and massing. Refer to the assessment under State Environmental Planning Policy No. 65 for further information.

- *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.*

Comment: As discussed throughout this report, inadequate information has been provided to demonstrate compliance with this control.

Council has requested detailed plans showing the fitout of the club component on a number of occasions. The application involves the provision of a “shell” premises for a club, although no detail of fitout has been provided, apart from an indicative sketch plan of the Plaza Level of the Club (SK03) which the applicant’s supporting documentation notes “*does not constitute part of the Development Application package and is more to provide Council Officers with some level of understanding as to the future club operations*”.

Apart from the above requests for detailed plans, Council also has requested documentary evidence regarding Balmain Leagues Club’s on-going commitment to the site, and suggested that a statutory declaration to this effect be provided. The applicant has submitted a letter, (not, however, a statutory declaration) from the Chief Executive Officer of Tigers advising that the primary purpose of redeveloping the club is to construct a new club, operated by Tigers on the site and that the Board Members remain unwaveringly committed to a new club on the site.

In the absence of a comprehensive final fitout plan for the Club, questions remain as to the Club’s ongoing commitment to the site.

- *To promote low and moderately priced housing through a mix of dwelling types.*

Comment: In the Sydney property market, studio and one bedroom apartments are an effective way of providing low to moderate income housing stock. The application does not involve the provision of any studio apartments, however, one (1) bedroom dwellings have been provided in accordance with the numerical requirements of Clause 19(6) of Local Environmental Plan 2000.

- *To ensure an integrated and well designed public domain environment that supports the existing Rozelle commercial area.*

Comment: The links from the plaza to Darling Street, Waterloo Street and Victoria Road are well designed and easily identified and accessible. However, the element of public domain infrastructure, which is most problematic, is the pedestrian bridge across Victoria Road, and concerns relating to its link to the site have been carried

out in detail above under the State Environmental Planning Policy No. 65. For the reasons identified in that assessment, the proposal is not consistent with the above control.

- *To promote ecologically sustainable development.*

For the reasons discussed above under State Environmental Planning Policy No. 65 assessment, the applicant has not demonstrated that the proposal meets the intent of this part.

#### *Part D1.5 - Layout and Massing*

The objective of this control is to enable the redevelopment of the site whilst minimising impacts on the surrounding area.

#### *Design or Planning Principles*

- *Scale and Form: where the height and scale of development departs from the scale and form of the surrounding area, transitional elements, such as setbacks and variable heights are to be used to reduce impacts, particularly along Waterloo Street and to the rear of the Darling Street properties.*

Comment: The application complies.

- *Block Pattern: buildings (particularly at the lower levels) are to be placed around the perimeter of the block to promote the formation of a street edge that encourages formation of street walls, maximises surveillance of the public domain and facilitates active street frontages.*

Comment: The application complies.

- *Open areas: open plaza/courtyard areas are to be provided in the centre to reduce density and increase solar access within the development.*

Comment: The proposal has provided the quantum of space (1700m<sup>2</sup>) required by the Leichhardt Development Control Plan 2000. However, as previously noted under State Environmental Planning Policy No. 65 assessment, concern is raised regarding the extent of timber pergola structures over the central plaza area added as a late amendment to the proposal, and the resultant enclosure of what was intended to be public open space.

- *Pedestrian movement: pedestrian movement through the site is to be encouraged and integrated by accessible means with established pedestrian routes including Darling Street and Victoria Road.*

Comment: The application has provided five pedestrian access points from Darling Street, Victoria Road and Waterloo Street, directly into the plaza and the shopping level immediately below the plaza. These routes are well identified and disabled access is readily obtainable from each street. The application is considered to be generally satisfactory in this regard.

- *Solar Access: Larger scale buildings are to be orientated to maximise solar access to areas of open space, whilst minimising the impacts of overshadowing on adjoining properties.*

Comment: The proposal does not overshadow adjoining properties contrary to the site specific controls of the Leichhardt Development Control Plan 2000. However, the proposed club and bridge components overshadow the public plaza in the morning more than was envisaged by the Development Control Plan, however afternoon sun is improved.

- *Visual and Acoustic Privacy: Separation distances between buildings are sufficient to ensure a satisfactory degree of privacy is achievable within all residential dwellings.*

Comment: As noted above under State Environmental Planning Policy No. 65 discussion and the privacy assessment under the Leichhardt Development Control Plan 2000, there are a number of visual and acoustic privacy matters as a result of lack of separation that need to be addressed by the applicant prior to any consent being granted.

Council is also concerned regarding the potential adverse direct view lines between the northern club terraces and adjoining Waterloo Street properties. The provision of a landscape planter to the northern end of the Plaza level terrace does not provide Council with a satisfactory degree of comfort that it will provide adequate privacy protection for neighbouring properties, particularly in the event of them not being satisfactorily maintained.

- *Development (including balconies) may only occur within the building envelopes as shown in Figures 5.1 and 5.2.*

Comment: Based on the plans provided, the proposal complies with the height controls. However, there is a lack of consistency between site / roof plans and landscape plans, heights are not nominated to the solar collector panels on the roofs of Buildings A, B and C, and the site and roof plans fail to specify RL information that can be relied upon (e.g. to planter areas). As an example of the implications of such lack of detail, Council's in-house environmental expert considers that the solar collector panels would need to be angled to function satisfactorily, at a pitch that could result in these panels being elevated several hundred millimetres above the roof of Building B and breach the height controls in Figure 5.1 of the Development Control Plan.

In terms of the major setback and envelope maps contained in Figure 5.1 and 5.2, the proposal breaches a number controls. Breaches include the following:

- The southern 7m (approximately) of the "club mezzanine" and areas directly below (including the pedestrian bridge access) breaches the envelope control / setback control maps contained in Figures 5.1 and 5.2;
- Part of the club component at plaza level and the club terrace above at Level 1, located to the immediate south-west of the club mezzanine, breach the envelope control / setback control maps contained in Figures 5.1 and 5.2;

- A portion (northern end) of the “club bridge” to Victoria Road breaches the envelope control / setback control maps contained in Figures 5.1 and 5.2;
- A portion of the specialty retail and club component above fronting Victoria Road located to the east of the plaza breaches the envelope control / setback control maps contained in Figures 5.1 and 5.2.
- The western side of the Darling Street infill building breaches the 2m setback control prescribed in Figure 5.2;
- The southern Waterloo Street entry has a width of 5m, which breaches the 6m width requirement contained in Figure 5.2.

An indicative line of the first four (4) breaches noted above is identified on Drawing DA.08L (as a result of Council raising breaches as a concern).

The first three (3) breaches and the fifth breach identified above are not supported due to the Design Review Panel and Council concerns relating to urban design and access associated with the Darling Street infill and pedestrian bridge raised previously in this report. Fundamental redesign of the proposal is required in order to address the concerns regarding the Darling Street infill and pedestrian bridge. The fourth breach is minor and will not have on-site implications.

The southern Waterloo Street entry will be of an adequate width to facilitate direct view lines through the development between Waterloo Street and Victoria Road and this link to the plaza is well designed and easily identified and accessible in accordance with the objective of this control, and the Design Review Panel has not raised objection to its 5m width.

- *There is to be no additional overshadowing after 10:30 AM for any Waterloo Street residential properties on the winter solstice.*

Comment: The application complies.

- *Limit overshadowing of surrounding properties to that cast by building envelopes shown at Figures 5.1 and 5.2.*

Comment: The application complies.

- *Provide a 1.5 metre setback at ground level and an additional 1.5 metre setback above the podium level from the private right of way at the rear of the Darling Street properties.*

Comment: The application complies.

- *Minimise visual impacts of the development from Darling Street.*

Comment: A reduction in floor space ratio could result in a slimmer building whilst retaining the maximum height of RL82AHD, with a consequent reduction in visual impacts on Darling Street.

- *Provide a setback or architectural treatment to new buildings along Waterloo Street to enable an appropriate transition to new development.*

Comment: The application complies

- *Reflect the fine grain residential character of Waterloo Street, the building forms in Waterloo Street should be vertically articulated to reflect the pattern of residential lot development and step with the topography.*

Comment: The proposal complies with this requirement and the Design Review Panel has raised no issues regarding the proposal in this regard.

### Part D1.6 - Land Use

The objectives of this part are to provide a diverse range of uses and distribute them in a manner that contributes to the development of a vibrant Rozelle commercial centre and reduces reliance on motor vehicles and encourages pedestrian use.

#### *Design or Planning Principles*

- *Provide a range of land uses to promote the development of a vibrant Rozelle commercial centre that meets the needs of the local community. The range of uses shall include:*
  - *Commercial*
  - *Retail including a supermarket and fresh food market*
  - *Restaurants and cafes*
  - *Residential*
  - *Car parking*
  - *Leagues Club*
  - *Plaza and other public accessible spaces*

Comment: The first amendment of the proposal provided for an excessive number (13) of restaurants on the site. These restaurants were introduced during the assessment process after Council staff expressed concerns that the amount of car parking proposed seemed to exceed the allowance of the Development Control Plan. The tenancies nominated as restaurants were all originally nominated as retail. Restaurants generate a much higher parking demand than retail.

Council staff have examined two other shopping centres of similar size and located within the municipality (Norton Plaza and the Italian forum). Norton Plaza has a direct arcade link to the main street, two levels of shopping, a full line supermarket, a fresh food mini-major and a general goods mini-major plus assorted tenancies, with a hotel and offices above. The Italian Forum does not have a major attractor (although it has a direct pedestrian link through to Norton Plaza), however it has two levels of mixed retail and restaurants, the Italian Community Centre, Leichhardt Library and five storeys of residential units surrounding the central plaza area. It also has a direct arcade link to the main street.

Restaurants represent 18% of the tenancies in Norton Plaza and 23% of the tenancies in the Italian Forum. The Subject development application, as most recently notified, proposed 50% restaurants. Of the “shopfront” tenancies (that is, the

tenancies with direct frontage to the plaza, arcade or internal mall areas and excluding the level one commercial tenancies) 13 out of 21 or 62% were proposed to be restaurants, the equivalent figure for Norton Plaza is 18%.

After Council expressed these concerns to the applicant, the proposal was again amended to reduce the number of restaurants to five tenancies (approximately 600m<sup>2</sup> of gross floor area) and reinstate the remainder as retail. The mix of business uses is now considered to be compatible with the intent of the planning controls.

- *Locate smaller scale retail units, in particular cafes and restaurants, around the central plaza and internal pedestrian routes to enhance activity levels.*

Comment: The proposal complies with this principle.

- *Locate larger scale retail development, which require larger servicing areas within basement levels.*

Comment: The proposal complies with this principle.

- *Reinforce Waterloo Street as a transition between residential and commercial land uses.*

Comment: The proposal will comply with this principle.

- *Locate commercial development (other than access) along the Victoria Road frontage.*

Comment: The proposal complies with this principle.

- *Provide a broad unit mix and adaptable accommodation.*

Comment: The proposal complies with the diverse and adaptable housing controls prescribed in Clauses 19(6) and 19(7) of Local Environmental Plan 2000.

- *Residential unit mix shall be consistent with Part 4 Clause 19(6) Diverse Housing and Clause 19(7) Adaptable Housing in Leichhardt Local Environmental Plan 2000.*

Comment: Complies, as previously noted.

- *Noise sensitive areas (such as bedrooms) shall be located away from noise sources. (Refer to State Environmental Planning Policy (Infrastructure) and other relevant planning policies).*

Comment: As discussed under the above State Environmental Planning Policy No. 65 assessment, the proposal does not meet this control.

- *Noise sensitive shielding or attenuation techniques shall be provided as part of the design and construction of the building.*



Comment: As noted above, insufficient information has been provided regarding the acoustic performance of the dwellings and whether they will be adequately shielded from external noise sources.

- *Safe and accessible paths of travel shall be provided from established retail and commercial areas along Darling Street and Victoria Road to the central plaza area.*

Comment: The proposal is satisfactory in this regard.

- *The development shall include all of the following:*
  - *Direct pedestrian access to Darling Street*
  - *Pedestrian bridge over Victoria Road accessed directly from the development and via lift and stairs or ramp from both sides of Victoria Road*
  - *Free home delivery from all shops located on site to within a five kilometre radius of the centre*
  - *Community bus (minimum 25 seater, accessible & free) operating the same hours as the shops and travelling the major roads of the municipality from East Balmain to Parramatta Road. A travel route map and timetable shall be submitted with any development application*
  - *Bike facilities for both shoppers and staff - a minimum of 55 bike spaces, with lockers and shower facilities*
  - *Bike facilities for residents at a rate of 1 per every 5 units plus a minimum of 5 visitor spaces*
  - *A minimum of six marked car spaces for the exclusive use of car share scheme*
  - *A designated area, in an easily accessible place within the development, for taxis to pick up and drop off.*

Comment: These requirements were reiterated in the Voluntary Planning Agreement for the proposal, and as discussed in further detail in the early part of this report, the proposal as submitted is not wholly consistent with the requirements of the Voluntary Planning Agreement.

- *Any pedestrian overpass shall not prevent paths of travel along Victoria Road.*

Comment: The pedestrian bridge has been the subject of redesign to ensure compliance with this part.

#### Part D1.7 - Building Language

The objective of Part D1.7 of Development Control Plan 2000 is to provide an iconic landmark development through high quality design, the use of innovative architectural forms and high quality materials and finishes.

#### *Planning Principles*

- *Employ high quality architectural expression that is innovative and contemporary, with reference to the following:*

- *Contemporary forms: embrace modern forms that are based on recent construction methods and the incorporation of ecologically sustainable development principles*
- *Articulation: use articulation to break up the bulk of larger buildings and provide a greater sense of transition between the site and the surrounding area. For example greater levels of articulation levels should be provided along the Waterloo Street frontage to reflect the small lot development of surrounding residential streets*
- *Materials and finishes: use high quality materials and finishes that highlight architectural features and enhance articulation. Encourage the use of materials that are durable, produce low glare and do not require high levels of maintenance, particularly around public spaces*
- *Legibility: use balanced variations in form, articulation and materials/finishes to highlight individual buildings and enhance the visibility of entrances*
- *Fenestration: reflect the function of buildings through fenestration patterns. Avoid expansive areas of blank glass especially along Waterloo Street, Moodie Street and internal public spaces. Avoid solid walls throughout.*
- *Roof structures: carefully integrate roof structures into the architectural style of the building and minimise the impact of any plant or telecommunications equipment*
- *Street pattern: reinforce the fine grained residential character along Waterloo Street through residential development height conforming to the topography of Waterloo Street*
- *Street interface: maximise activity level and surveillance along main pedestrian routes by placing small retail units around the plaza and pedestrian links. Encourage greater surveillance along Waterloo Street by providing individual entryways to residential dwellings.*

Comment: Council and the Design Review Panel are not satisfied with respect to various aspects of the proposal with regard to building language, as discussed above under Design Review Panel comments in the State Environmental Planning Assessment No. 65 assessment of this report.

- *The design of the built form is to be developed by the applicant in accordance with Leichhardt Development Control Plan 2000 and in consultation with a Design Review Panel appointed by Council.*

Comment: As previously noted, assessment of the proposal against the provisions of the Leichhardt Development Control Plan 2000 and by the Design Review Panel have raised several significant urban design issues the resolution of which will involve a fundamental redesign of the development.

- *In accordance with State Environmental Planning Policy 65, a Design Statement is to be submitted in support of any development application*

*comprising residential flat development. The Design Statement is to address relevant issues relating the design of all buildings (with reference to the Residential Flat Design Code (where appropriate))*

Comment: The above information has been provided by the applicant, however, Council is of the view that the proposal fails to meet a number of provisions of State Environmental Planning Policy No. 65 / Residential Flat Design Code, which have been identified previously in this report.

- *The non residential component of the building shall have an Australian Building Greenhouse Rating of a minimum of 4 stars.*

Comment: In order to comply with this requirement, certification from an accredited assessor one (1) year after full occupancy would need to be imposed as a condition on any consent granted.

- *The proposal should demonstrate compliance with the objectives for energy efficiency and water conservation as provided in State Environmental Planning Policy 65.*

Comment: As noted previously in this report, the development does not satisfy, or has not demonstrated compliance with, the solar access requirements of State Environmental Planning Policy No. 65 / Residential Flat Design Code, nor has it been demonstrated that the residential and non-residential components meet passive solar design or appropriate environmental performance, and therefore, this test has not been met.

- *Unit depth shall be a maximum of eighteen metres to maximise opportunities for natural ventilation. Where unit depth exceeds eighteen metres, the design must demonstrate how natural ventilation can be satisfactorily achieved particularly in relation to habitable rooms.*

Comment: All dwellings comply with this test.

- *Living rooms and private open spaces for at least 70% of apartments should receive a minimum of three hours direct sunlight between 9AM and 3PM on the winter solstice.*

Comment: As discussed above under State Environmental Planning Policy No. 65 assessment, it has not been demonstrated that the proposal meets this requirement.

- *A maximum of 10% of single-aspect units may have a southerly (SW-SE) aspect.*

Comment: In Council's opinion 52 units, or 36% of the total, constitute a single aspect design. The following dwellings on Waterloo Street are considered to have a single aspect:

- Unit 7 = 1 unit;
- Unit 8 = 1 unit;
- Unit 9 = 1 unit;
- Unit 13 = 1 unit; and

- Unit 14 = 1 unit

The following units within Tower A are considered to have a single aspect;

- Units 2, 3 and 4 on levels 2-11 = 30 units
- Units 2 and 3 on Level 12 = 2 units; and
- Unit 7 on Levels 2-11 = 10 units.

The following units within Tower C are considered to have a single aspect:

- Unit 2 on levels 2-6 of Tower C = 5 units.

Of these dwellings, the terraces on Waterloo Street and Unit 7 in Building A have a southerly aspect. On this basis, 15 dwellings or 10% of the single aspect apartments have a southerly aspect, which complies with this control.

- *Balconies should be a minimum area of ten square metres with a minimum depth of 2.4 metres and directly accessible from main living areas.*

Comment: As noted above, the sizes of proposed balconies to the dwellings are deemed to be satisfactory. These balconies will have direct connection to main living spaces.

- *All roof structures, such as plant, lift overruns and telecommunications equipment shall be integrated into the design of the development and setback a minimum of five metres from any external building facade.*

Comment: The following comments are provided with regard to plant and lift overruns:

- Building A and C – the proposal complies with the above setback requirements with respect to Towers A and C; and
- Building B - The lift overrun and stair access to the roof of Building B are within the 5m setback requirement (eastern and western facades respectively), however, this is not objected to on the basis that the overrun will not extend above the building parapet, which in-turn is within the height controls of the DCP. The solar collector panels will be setback 5m from the northern, southern and western facades of the building and the eastern façade associated with the northern portion of the building in accordance with the intent of the above control.

The planter areas to the club and Buildings A, B and C will technically breach the 5m setback requirement. However, it is considered that, unlike other roof elements such as those specifically nominated in this control, the planter areas will make a positive contribution to the development and streetscape, and together with their environmental benefits, Council does not object to these elements.

As previously noted under the State Environmental Planning Policy No. 65 assessment, the applicant has advised that telecommunication equipment is to be removed, and a condition of consent could be imposed reinforcing that this occurs.

- *A minimum articulation zone of four metres shall be provided within the perimeter of the building envelope. Of this articulation zone up to 75% of this zone may contain floor space. However, the remaining 25% articulation space shall not wholly be used for balcony area.*

Comment: The application complies with the articulation zone control.

#### Part D1.8 - Development within the Conservation Area

The objective of this part is to ensure new access ways and infill buildings along Darling Street enhance the character of the streetscape.

##### *Planning Principles*

- *For the Balmain Leagues Club Precinct to become an integral part of the Rozelle commercial centre, a direct link between Darling Street and the central plaza area is needed. The Darling Street streetscape is of conservation significance. Replacement buildings which frame the new access point and pedestrian link between Darling Street and the plaza area need to be designed so that the significance of the streetscape is maintained and enhanced.*

Comment: As noted previously under the State Environmental Planning Policy No. 65 assessment, the proposed Darling Street infill does not reflect the character of the street in either form, scale or detailing and needs a much more sympathetic and fine-grained response which reinforces prevailing streetscape merit rather than competing with the mainstreet character.

- *Retain the contributory features of properties fronting Darling Street however allow the demolition of No. 697 Darling Street and No. 1 Waterloo Street to facilitate the pedestrian link between Darling Street and the central plaza area.*

Comment: As noted previously under the State Environmental Planning Policy No. 65 assessment, the proposal involves the demolition of the buildings on Darling Street, however, the proposed replacement infill to Darling Street will be detrimental to the streetscape and Conservation Area.

- *Promote infill replacement buildings at Nos No. 697 Darling Street and No. 1 Waterloo Street which are designed to maintain and enhance the character of Darling Street with reference to the following:*
  - *Contemporary design: the buildings should clearly read as new*
  - *Massing and scale: setbacks and floor levels should align with those of adjoining buildings at all levels to promote a sense of streetscape continuity*
  - *Materials and finishes: materials should be of lightweight construction to highlight the contemporary design of infill development and provide a bridging element between older structures*
  - *Articulation: heavy articulation should be avoided and buildings should be vertically proportioned in keeping with the predominant streetscape pattern.*

Comment: As noted previously under the State Environmental Planning Policy No. 65 assessment, the Darling Street infill particularly on the western side of the arcade, does not achieve this, and it should be feasible to design a contemporary building which, whilst clearly articulating a modern-day origin, is nonetheless respectful of its context.

#### *Controls*

- *The design of infill development is to be addressed as part of a State Environmental Planning Policy 65 Design Statement that takes in account the guidelines listed above.*

Comment: See previous comments under the State Environmental Planning Policy No. 65 assessment.

- *Development within the conservation area shall be restricted to a maximum height of RL 52.0 AHD and consistent with adjoining properties with particular respect to height and scale.*

Comment: The building will meet the height limit, however, as previously noted, its part three storey height, form and appearance hard against Darling Street, and its overall design, is out of character and inappropriate in this streetscape.

- *For any major redevelopment proposal on the subject lands, a heritage impact statement is to be provided with development application submitted to Council to assess the impact of the proposed works on the conservation area and heritage items in the vicinity of the proposal.*

Comment: A Heritage Impact Statement has been lodged and assessed by Council.

#### Part D1.9 - Public Domain and central plaza area

The objective of this part is to provide major public domain improvements in conjunction with the redevelopment of the Balmain Leagues Club Precinct.

#### *Planning Principles*

- *Provide new public domain and improvements to existing pedestrian infrastructure including the following.*
  - *Plaza area: a publicly accessible plaza shall be located in the centre of the Balmain Leagues Club Properties that is designed to accommodate a range of such as outdoor restaurants and cafes, stalls, kiosks and display areas*
  - *External pedestrian environment: upgrade surrounding footpaths around the perimeter of the Balmain Leagues Club properties with planting, materials and furniture consistent with the Council's public domain strategy/masterplan for the locale*

- *Pedestrian bridge: provide an attractive and artistically designed pedestrian bridge that connects the northern and southern sides of Victoria Road and provides an alternative and safe crossing point*
- *Through site links: provide unrestricted pedestrian access between Victoria Road, Darling Street and Waterloo Street to increase permeability and enhance the local pedestrian network.*

Comment: The proposal has included a central public plaza which can accommodate a variety of uses, and which has good links to Waterloo Street, Darling Street and Victoria Road. The application has also identified the surrounding public domain upgrade works which will be carried out.

With regard to the proposed bridge, however, the built outcome is less than satisfactory. The proposed bridge would be neither attractive nor artistically designed. There are other recently constructed bridges which are much more visually appealing, most notably the pedestrian/bike bridge that crosses the City West link at the southern end of Victoria Road.

#### *Controls*

- *New public domain and improvements to existing pedestrian infrastructure are to be provided as illustrated in Figure 9.1. Note a Landscape Masterplan with full details of all improvements is required to be lodged with the development application.*

Comment: Satisfactory.

- *The plaza area is to have a minimum area of 1,700 square metres and shall be accessible at all times.*

Comment: Satisfactory.

- *A maximum of 500 square metres of the plaza area may be used for retail purposes (eg. outdoor seating/dining and kiosks) and must not conflict with paths of travel.*

Comment: Satisfactory.

- *The pedestrian bridge is to be accessed from the southern and northern sides of Victoria Road and allow direct access from Victoria Road via the plaza. The pedestrian bridge is to comply with Australian Standard AS 1428.*

Comment: Satisfactory.

- *Any advertising on the pedestrian bridge over Victoria Road is to comply with the requirements of State Environmental Planning Policy 64.*

Comment: Not applicable. No signage is proposed to the pedestrian bridge, and the Roads and Traffic Authority objects to such signage being provided.

## Part D1.10 - Access and Management

\* Note: Assessment under this part of the Leichhardt Development Control Plan 2000 is based on information received up until 11 June 2010.

The objective of this part is to configure parking areas and entrances so that the focus of heavy vehicle movements is Victoria Road, and that traffic impact on neighbouring residential areas is contained.

### *Planning Principles*

- *Vehicular access to the site shall:*
  - *minimise the impact of additional vehicular movements in surrounding residential streets, in particular heavy vehicles*
  - *concentrate retail and commercial vehicle movements to and from Victoria Road*
  - *provide ease of ingress/egress for vehicles to and from Victoria Road*
  - *minimise potential pedestrian and vehicular conflicts*
  - *identify the physical works to the surrounding road network to accommodate the proposed development.*

Comment: A Traffic Management Plan, prepared by Halcrow MWT and dated 19 March 2010 has been submitted in conjunction with the plans under assessment. Attached to this report are various appendices, including:

- Appendix A: Details of the proposed Number Plate Recognition Systems;
- Appendix B: A Construction Traffic Management Plan, prepared by Halcrow MWT and dated 10/3/10;
- Appendix C: RTA submission;
- Appendix D: Letter to Sydney Buses;
- Appendix E: Reply to Council's Request for Additional Information (Council's letter dated 29 September 2009), prepared by Halcrow MWT and dated 12 March 2010; and
- Appendix F: Proposed Bus Route and Timetable.

The original rezoning application for the Balmain Leagues Club redevelopment was accompanied by a transport report, prepared by Consultant SKM. A Paramics microsimulation traffic model as prepared by that consultant to assess traffic impacts. Given that an application to rezone the former Carrier airconditioning site was current at the same time as the Balmain Leagues Club was before Leichhardt Council, Council commissioned consultant ARUP P/L to advise on collective traffic implications of the two proposals.



Council forwarded a letter to the applicant dated 29 September 2009 which included traffic and parking related concerns raised by Council's Engineers, some of which have not been addressed in the applicant's latest submission. These issues are critical to whether the application can be supported on traffic and parking grounds, and details relating to outstanding issues are discussed below.

Council's Traffic Engineers acknowledge that the previous traffic network model prepared by ARUP P/L was developed to determine whether the road capacity was adequate to accommodate the original development proposal. Consequently, Amendment 16 of the DCP was gazetted on the basis of 65% of the original development intensity. Note that the above traffic network modelling did not provide a detailed analysis of nearby intersections.

Council's Traffic Engineers are concerned that an adequate detailed analysis of the impact of the development on the surrounding road network and associated intersections has not been adequately undertaken, and that an analysis needs to be undertaken to include revised traffic generation and distribution associated with the current development. In particular the analysis needs to address the following key areas:

- Traffic distribution and adequacy relative to the Victoria Road and Waterloo Street entry/exit points
- Moodie Street / Waterloo Street intersection capacity and queuing analysis
- Darling Street / Waterloo Street intersection capacity and queuing analysis
- Truck frequency and route details (in particular entry and exit routes from citybound vehicles)

Council's Engineers also consider that a Traffic Report must be submitted addressing the above issues and must provide recommendations on treatments / measures for addressing any issues identified, with all modelling assumptions and parameters to be provided in the report.

Given that the proposal results in significant changes to the flow of traffic within the surrounding local network, the analysis is required prior to any approval being contemplated such that appropriate traffic management measures could be conditioned.

#### *Intersection analysis – Waterloo St/Darling St and Waterloo St-Moodie St*

This analysis was only undertaken for *Thursday evening peak* which is not critical at the present time as there are no active retail or large restaurant base in this area. It is not clear from Table 4.4 of the applicant's Traffic Management Plan as to whether the average delay results correspond to which road. According to traffic flows in Figure 1, it is likely queuing along Darling Street northern approach would increase with the development traffic (right turning traffic increase from 42 to 79veh/hr). As previously requested, the applicant is required to provide results (degree of

saturation and queue lengths for all approaches) of AM analysis as well. It is not clear what peak period was chosen for the Saturday traffic flows given in the Report.

Therefore, intersection analysis for Saturday Noon scenario for Waterloo/Darling and Waterloo/Moodie is required. For this analysis, the existing traffic counts and development traffic generation can be used (with SIDRA) as it is understood that Paramics model has not used Saturday flows. The analysis is required prior to any approval being contemplated such that appropriate traffic management measures could be conditioned.

### *Traffic Generation*

The traffic generation rate for professional consulting rooms is much higher than for commercial uses. However, the 'Traffic Generation Summary' in the applicant's Traffic Management Plan (page 16) does not provide details of traffic generation for professional consulting rooms and restaurant uses. The applicant is required to update the traffic generation details.

The applicant is required to update the additional traffic distribution at the Darling Street-Waterloo Street and Waterloo Street-Moodie Street intersections based on the updated traffic generations.

Given the additional traffic generated by the development onto local streets such as Waterloo Street and Darling Street (south of Victoria Road), the applicant is required to provide a traffic management plan indicating relocation of kerbside parking and 'Bus Zone' if necessary, in Darling Street, between Victoria Road and Waterloo Street. This was identified in Section 4.2.2 of the applicant's Traffic Management Plan Report.

In summary, the traffic and access issues raised by Council's Engineer's in Council's letter dated 29 September 2009 remain an issue:

a) Introduction

The report correctly refers to previous studies by ARUP and SKM. However, the report is for a Development Application and therefore needs to be in accordance with the requirements specified in the Roads and Traffic Authority's Guide to Traffic Generating Developments – Section 2: Traffic Impact Studies, and also Council's requirements for a Development Application traffic report.

b) Peak periods for assessment

Although the ARUP modelling was focussed on the weekday PM peak, the applicant's report needs to demonstrate that detailed analysis of the weekday AM peak and weekend peaks are not required. In this regard, the PM peak may be the worst case for Victoria Road traffic is concerned, however, given that the off-street carparks provide access to Waterloo Street, the development will cause some impact on traffic in Waterloo Street and Moodie Street in the AM peak as well. The applicant is therefore required to provide an analysis on traffic impact in AM and PM peaks for the surrounding road network.

c) Traffic / Trip Generation

- It is acknowledged that a reduction in parking supply reduces traffic generation. However, the actual magnitude of this reduction is often a subjective assessment. The report makes the assumption that a reduction in parking supply, compared to recommended Roads and Traffic Authority rates, results in a corresponding reduction in traffic generation, e.g. Development Control Plan parking rate for supermarket is 35% of the Roads and Traffic Authority rate, therefore traffic generation is 35% of the Roads and Traffic Authority rate. These critical assumptions need to be supported by relevant data.
- The report has stated that the changed land use mix from the ARUP modelling will not generate any more traffic than the budget recommended as a result of the ARUP modelling. The ARUP modelling was based on a combination of assumptions regarding parking rates by land use, access/egress by land use, traffic generation and traffic distribution. The report needs to be more explicit in clearly demonstrating that the changed land use mix does not invalidate any of the previous modelling assumptions.
- The indicated peak hour traffic generated by the development of 324 vehicle trips per hour is higher than the allocated traffic budget of 316 vehicles per hour in the evening peak hour, and the assumptions used in deriving the trip generation rates for the development are not acceptable - in this regard, refer above regarding trip generation particularly for professional consulting rooms and restaurant uses.

d) Traffic Distribution

The traffic distribution and pass-by trip assumptions of the ARUP modelling were based on a small sized supermarket and a major supermarket is now proposed. The report needs to demonstrate that the previous trip distribution and pass-by assumptions are still valid. For example, it is likely that a full-line supermarket would draw from a much larger catchment area than a small supermarket and would also have a lower proportion of pass-by trips.

According to the RTA guidelines, the trip generation (rate – 0.123 veh/hr/m<sup>2</sup>) for the proposed supermarket would be approx. 435veh/hr. As Council's Development Control Plan 2000 does not provide a parking rate for Supermarkets, the trip generation rate used (0.036veh/hr/m<sup>2</sup>) in the SKM's estimate is not acceptable.

e) Traffic Impact

The report needs to confirm the likely change in traffic volume on Waterloo Street and Moodie Street, and that any increases are within acceptable environmental thresholds. As part of this traffic analysis discussed above, the intersections of Darling Street/Waterloo Street and Waterloo Street/Moodie Street must be included.

f) Traffic management measures

It is unclear if the development will require any traffic management measures such as changes to signal timings. As part of this traffic analysis discussed above, the intersections of Darling Street/ Waterloo Street and Waterloo Street/ Moodie Street must be analysed and recommendations on treatments / measures for addressing any issues identified. Therefore, more details are required: queue lengths in all approaches, weekday AM and Saturday analysis.

g) Exiting Traffic onto Victoria Road

The trucks exiting the site would need to utilise all lanes on the westbound carriageway of Victoria Road. This arrangement would cause a significant impact on westbound traffic in Victoria Road. Provide details on how traffic in Victoria Road is managed to allow trucks to exit safely to Victoria Road. The Report states that:

*“The Victoria Road driveways have been purpose designed to allow semi-trailers to enter and exit in a forward direction ....”*

However, this arrangement is not acceptable as:

- It causes unsafe situation for traffic in Victoria Road and
- A semi-trailer waiting turn left into Victoria Road can cause significant delays to the rest of traffic waiting to exit the 550-space car park. This could force the Centre management to release traffic onto Waterloo Street (local).

Due to the significant traffic movements (12 cars + 1 truck every 6 minutes) associated with the proposed access and associated pedestrian traffic on Victoria Road, a signalised intersection or modifications to signals at Victoria Road-Darling Street to allow adequate time for safe exit from the car park is required.

Concern has also been previously raised with regard to the proposal for customers of the retail development to share the same vehicular access and ramps as heavy vehicles accessing the loading dock. In accordance with Australian Standards, there shall be physical separation between heavy vehicle access and access for customers.

The applicant's response states that:

*“..commercial vehicle access to the site will be prohibited during the peak traffic demand of the evening peak”.*

The updated Traffic Report states that all service vehicles tend to arrive after 7am and cease deliveries around 4pm and Supermarket deliveries would accordingly be scheduled not to be made between 4pm and 6pm on weekdays.

As previously noted, concerns remain regarding the ability of the applicant to manage truck movements in this manner. Large truck deliveries have been observed to other shopping centres in the municipality during peak hour traffic.

The issues raised in (a)-(g) above and can not be addressed by condition in the event of an approval being contemplated.

h) Victoria Road Access

The proposed Victoria Road access and associated ramp and driveway are not supported in its current form. In this regard, Council previously raised the following concerns with respect to the proposal:

- Due to the significant traffic movements associated with the proposed access and associated pedestrian traffic, a signalised intersection should be investigated to demonstrate to Council that this access meets appropriate safety standards for the movement of vehicles and pedestrians. Signalisation could occur on the proposed footbridge across Victoria Road and be in phase with the signals at the Victoria Road/ Darling Street and Victoria Road/ Wellington Street intersections to limit traffic impacts
- Concern is raised over the extent of queuing back into the site on the access ramps.
- The entry ramps do not take into account the significant longitudinal slope of the roadway. Appropriate level transitions will be required.
- The entry and exit must be clearly demonstrated to comply with all aspects of Section 3 of AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, including width, location, sight distance, gradients and queuing.

Council also noted that, given the amount of vehicles exiting, the driveway access on to Victoria Road will require a signalised intersection to prevent queuing in the internal circulation system of the car park. In addition, trucks entering the site through the slip lane could impact on sight lines of exiting traffic.

The applicant's Traffic Report notes that the retail land use component of the site would generate 230veh/hr. If the split between the two driveways is assumed as 60% (Victoria Road) and 40% (Waterloo Street), there will be 120veh/hr exiting onto Victoria Road.

Council's Engineers consider that the attempts at investigating a signalised intersection are insufficient. Section 6 Site Accesses of the applicants Traffic Report details that vehicles will exit the development onto Victoria Road in gaps in the traffic and through courteous drivers. This is not accepted as an argument to justify that the exit will not result in excessive delays or queuing.

As a consequence of the traffic generated by the development, the significant traffic movements in Victoria Road and queuing effects at the Victoria Road/ Wellington Street intersection, the only adequate way to address internal queuing, and provide safe vehicular entry/exit to the development, is by providing a signalised intersection.

Concerns raised above regarding managing truck movements are also relevant in this regard.

In order to satisfactorily address the above, a fundamental redesign of proposed vehicular access to the site is required that could not be conditioned in the event of an approval being contemplated.

i) Waterloo Street Access

- The letter from DKO dated 5 February 2010 provides details of a number plate recognition system to manage vehicle ingress and egress. Concern is raised the proposed system does not address the objective of the Leichhardt Development Control Plan 2000 in that it does not limit exit to Waterloo Street to patrons that have actually visited the Club on that trip, but only to Club members in general. Any variance to this is not accepted.
- Section 3.3 of 'Updated Traffic Management Plan' indicates that residents' visitors would need to use an intercom to request the resident being visited to activate the entry gate from their unit. It is not clear how these verbal requests made by visitors are verified and also how every residential unit is equipped with technology to be able to control the boom gate. The applicant is required to clarify how residents' visitors' vehicles are recognised in ANPR system.
- The entry ramps do not take into account the significant longitudinal slope of the roadway. Appropriate level transitions will be required.
- The entry and exit must be clearly demonstrated to comply with all aspects of Section 3 of AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, including width, location, sight distance, gradients and queuing.
- The proposed access to Basement Level 5 from the express ramp fails to comply with AS and creates a potential conflict point. The following issues are raised:
  - Inadequate vehicular manoeuvrability entering and exiting the express ramp and waiting area.
  - Given the significant slope on the express ramp, there is inadequate sight distance for vehicles travelling from Basement Level 6 to vehicles entering/ exiting Basement Level 5.
  - Inadequate queuing capacity within Basement Level 5 for residential vehicles exiting via the express ramp.
- Inadequate vehicle manoeuvrability, in particular at the following locations:
  - In Basement Level 6, at each intersection along the two way aisle adjacent to the Waterloo Street boundary.

- In Basement Level 4, manoeuvring between the central two way aisles.

The above can not be conditioned in the event of an approval being contemplated.

j) External street network

Concern is raised in relation to the impact of the development on local streets, intersections and existing on street parking arrangements. The applicant must clearly demonstrate that the proposal does not detrimentally impact on the operation of nearby signalised intersections and local uncontrolled intersections. In this regard, the modelling has clearly identified that Waterloo Street would experience significant increase in traffic. An analysis of intersections at Darling Street/Waterloo Street and Waterloo Street/Moodie Street for the AM and PM peak is required. As above, the Traffic Report must address this issue.

As previously noted, given that the proposal results in significant changes to the flow of traffic within the surrounding local road network, the analysis is required prior to any approval being contemplated such that appropriate traffic management measures could be conditioned.

k) General

Amended architectural plans have addressed a number of the issues raised however the following issues are still outstanding in relation to compliance with AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities:

- Inadequate queuing capacity is provided at the Waterloo Street entry, and the location of the entry boom gates is not shown at the Victoria Road entry (Note that queuing area for a minimum of six (6) vehicles must be provided). The applicant must clarify their intent to require customers to pay for parking. In this event, a boom gate will be required. This issue can not be addressed via condition in the event of an approval being contemplated.
- Inadequate accessible headroom clearance through the Waterloo Street access ramp (minimum 2300mm required). In this regard, it is acknowledged that 2200mm is required along the path of travel in accordance with the recently released AS/NZS2890.6:2009, however it should also be noted that 2500mm headroom clearance must be provided above the accessible parking module. It is also noted that Clause 2.2.1 of AS/NZS2890.6:2009 requires the design of accessible parking spaces to include shared areas adjacent to the accessible space. The architectural plans must be amended accordingly to address the above. This issue can not be conditioned as any design amendment is likely to impact on floor levels, ramp gradients and ground clearance compliance. In particular, it is likely that the 2500mm headroom clearance can not be achieved without significant redesign.

- The proposal has not demonstrated that the proposed levels of the entry/exit ramps at the Victoria Road and Waterloo Street are satisfactory and meet the existing footpath levels at the boundary, noting that addressing this issue is likely to significantly impact on ground clearance, ramp gradients and headroom compliance. In this regard:
  - The submitted Waterloo Entry ramp sections do not meet the existing footpath levels. The section details a general flattening of the existing boundary levels and shows a step within the adjacent footpath. This is not permitted. All level transitions must occur within the property. The section must be amended accordingly.
  - The levels across the ramp will need to be raised in order address this issue.  
In order to comply, apart from affecting clearances and gradients, the substation will need to be set back further from the Waterloo Street boundary.
- An amended Victoria Road Entry ramp section has not been received and remains outstanding and can not be conditioned as any design amendment is likely to impact on floor levels, ramp gradients, ground clearance and headroom compliance.
- Inadequate vehicle manoeuvrability, in particular at the following locations:
  - The two way curved ramp at Level B2 linking to Level B3 - A separator or central median must be provided in accordance with AS/NZS2890.1:2004. This will impact on vehicle manoeuvrability. Consequently the ramp design will need to be adjusted.
  - The egress and associated access aisle from basement 6 are impeded by the adjacent disabled parking space.
  - The two way curved ramp at Levels B4 and B5 in the southern corner. Note the conflict with Residential Lift B.
  - Multiple manoeuvring conflicts at Level B4 between the ramp from Level B5 and adjacent aisles.

Given the significant longitudinal slope in Victoria Road and Waterloo Street, the access driveway and ramps will need to incorporate significant level transitions inside the property boundary. It is noted that level transitions are incorporated within the driveway however the boundary levels do not meet the existing footpath levels and as such the transitions must be amended. Some of these issues could not be conditioned in the event of an approval being contemplated.

- Parking spaces have not been dimensioned to demonstrate compliance with AS/NZS 2890.1-2004, taking into account the intended user class of each parking level. This may impact on the total number of parking



spaces. The location of columns must be in accordance with Figure 5.2 of AS/NZS 2890.1-2004. While this issue has not been resolved, it could be conditioned on the proviso that the minimum car parking requirements were met.

- It has not been demonstrated that the proposed access and parking facilities comply with the size, grade, ground clearance, manoeuvrability and headroom requirements of AS/NZS 2890.1-2004. The submitted letter states that 'compliance with this will be demonstrated prior to construction certificate'. This is not accepted as it is clear that significant design amendments are required to achieve compliance which is likely to result in the relocation of walls, raising or lowering of floor levels etc.
- The plans do not demonstrate that all circulation roadways and ramps comply with Clause 2.5 of AS/NZS 2890.1-2004. Swept path analysis must be submitted on full size plans demonstrating compliance with the Standard. Achieving compliance may significantly impact upon the design of all basement levels.
- It has not been demonstrated that the longitudinal profile of all the access ramps within the parking facilities comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. In this regard, it has not been demonstrated that the internal ramp between Level B3 and the lower levels complies with Clause 2.5.3 (e). All access ramps must comply with the ground clearance templates. Long sections of the ramp are required and can not be conditioned.
- It has not been demonstrated that a minimum headroom of 2200mm has been provided throughout the access and parking facilities. Minimum headroom of 2300mm must be provided along the path of travel to/from any disabled parking space(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
- Sections have not been provided demonstrating that headroom at a 'sag' type grade change measures in accordance with Figure 5.3 of the Standard, and the submitted sections still show headroom clearance measured incorrectly.

In light of the above, the proposal is not considered to meet the objective and planning principles of Part D1.10 of Development Control Plan 2000.

### *Controls*

- *Vehicular access to and from the site is to be provided in accordance with Table 10.1 below.*

*Table 10.1 – Vehicular Ingress / Egress*

<b><i>Land Use</i></b>	<b><i>Ingress</i></b>	<b><i>Egress</i></b>
<i>Residential</i>	<i>Waterloo Street &amp; Victoria Road</i>	<i>Waterloo Street and Victoria Road</i>

<i>Club</i>	<i>Waterloo Street &amp; Victoria Road</i>	<i>Waterloo Street &amp; Victoria Road</i>
<i>Retail</i>	<i>Waterloo Street &amp; Victoria Road</i>	<i>Victoria Road only</i>
<i>Commercial</i>	<i>Waterloo Street and Victoria Road</i>	<i>Victoria Road only</i>
<i>Servicing / Unloading</i>	<i>Victoria Road only</i>	<i>Victoria Road only</i>

Comment: The proposed number plate recognition system controlling egress onto Waterloo Street does not separate patrons who have visited the club from commercial and retail customers who are simply members of the club. Therefore, the proposed number plate recognition system does not provide control to ensure that commercial and retail traffic from basements 3, 4 and 5 do not exit onto Waterloo Street. Therefore, it has not been demonstrated that controls contained in Table 10.1 above have been met.

Council's Engineers have raised numerous issues regarding vehicular ingress and egress arrangements to various aspects of the development, which have been detailed previously.

- *A Traffic Management Plan that addresses issues relating construction and operation phase of development shall be prepared. The Traffic Management Plan shall assess additional traffic generated by the development, including issues raised above.*

Comment: Council's Engineers have raised the following concerns relating to the Traffic Management Plan:

- The use of Waterloo Street and Moodie Street by the site construction vehicles is not supported. However, the applicant must provide type, number and frequency of construction vehicles that are expected to use those residential streets.
- The report states that the southern footpath of Victoria Road, adjacent to the site, requires a short-term closure. Any temporary closures of footpaths in the area must be arranged outside the commuter and school peak periods and the applicant must obtain Council's approval for Traffic Control Plan.
- Section 3.8 of Appendix B indicates that parking arrangements for construction staff could be managed in the final construction management plan. Given the high parking demand in the area and potential impact on parking needs of residents, staff parking should be accommodated on-site. The applicant must provide a plan indicating details of parking (i.e. Location, access points, numbers) prior to commencing the works.

Point 1 noted above should be provided by the applicant prior to any consent being granted.

- *Direct pedestrian movement is to be provided through the central plaza area and is to be unobstructed (with a minimum path width of five metres that is clear of all obstructions).*

Comment: The plans as dimensioned show general compliance with this requirement. If approval were granted to the development, a condition should be imposed requiring on-going compliance with this control.

- *Where buildings or other structural elements overhang the central plaza area or primary pedestrian routes between the plaza area and Darling Street, there shall be a minimum overhead clearance of six metres.*

Comment: The proposal does not comply with this control. Areas of non-compliance include:

- The western side of the Darling Street infill;
- The commercial part of the development under Building A and adjacent to the Darling Street entry; and
- The part of Building B (eastern side) that is cantilevered over the plaza.

Further, the most recent set of amended plans introduced pergolas to the public plaza. These plans do not provide specific dimensions of the clearance under pergolas and as a consequence Council is unable to confirm whether the pergolas achieve compliance.

These breaches, in particular to the Darling Street infill and entry and the pergolas (if applicable), given the Council and Design Review Panel concerns raised above, are not supported.

- *Service areas and loading docks for all land uses (such as deliveries, waste and recycling collection) which require access by heavy vehicles are to be directly accessed from Victoria Road only.*

Comment: Satisfactory.

- *Access, vehicle circulation, parking, un/loading and service areas are to be wholly separated for residential and non-residential uses.*

Comment: Not provided. Loading/unloading and service areas are shared and this issue can not be resolved via condition.

- *Lifts to/from basement and entry/access points are to be separate for residential/non-residential uses.*

Comment: Residential lifts provide access to basement 2 (i.e. the loading dock). Given that garbage chutes are not permitted and garbage collection needs to occur with the levels above, and provided that residents do not have direct access to this area (via an override / swipe system), this access is not objected to.

Basement 5 shows the lift door to residential Building B opening into the commercial and club car parks rather than the secure residential parking area and does not detail how secure access is to be provided between the public lift area and the secure residential parking areas in Basements 5 and 6.

- *Egress for retail and commercial traffic to be limited to Victoria Road only.*

Comment: As noted above, it has not been demonstrated that this control has been met. Refer to previous assessment regarding egress concerns relating to various aspects of the development.

- *Adequate loading, unloading, waste and recycling collection and management facilities are all provided in a discrete manner, such as to the rear of buildings or within basement levels only. Provision of garbage collection for all uses shall be limited to within the site.*

Comment: The waste storage facilities to Units 1-9 on Waterloo Street are provided fronting these dwellings. The provision of waste storage facilities within front setbacks similar to Units 1-9 are not inconsistent with boundary-to-boundary terrace forms in the area, however, the applicant is yet to demonstrate via adequately detailed plans that these facilities are appropriately screened from the street. The waste storage facilities to the remaining Waterloo Street terraces are located within the site and adequately setback and screened from the street to not pose an adverse streetscape issue.

Waste collection to all Waterloo Street terraces would be via Waterloo Street technically in breach of this control. However, this is not inconsistent with other residential development on Waterloo Street, and Council's Waste Services Section has raised no objection to the development in this regard.

#### Part D1.11 - Traffic Management

- \* Note: Assessment under this part of the Leichhardt Development Control Plan 2000 is based on information received up until 11 June 2010.

The objective of this Part is to ensure traffic generated by the development is within environmental limits and is well managed throughout the local network.

#### *Controls*

- *The final mix of uses within the development must ensure traffic does not significantly impact the road network in the area*

Comment: Refer to previous assessment under the site specific DCP controls with regard to traffic implications. The applicant has not yet demonstrated that the traffic impacts will have acceptable impacts on the road network.

- *Subject to Roads and Traffic Authority and local traffic authority approval where necessary, the development is to incorporate (if not already provided) the following:*
  - *Extension of existing dual land right turn bay from Victoria Road eastbound into Darling Street*

- *Deceleration lane (~60m) into the development*
- *Relocation of the southbound Darling Street bus stop (subject to State Transit Authority approval).*

Comment: The right turn bay extension from Victoria Road has already occurred.

A deceleration lane has been provided as per the above, however as previously noted under the State Environmental Planning Policy No. 65 assessment, the 3m dedication of land to Council at all levels of the basement on Victoria Road has not been provided as per advice by the Design Review Panel, and this aspect has potential implications for parking arrangements, egress, ingress and the ramp location to Victoria Road, which cannot be readily identified in the absence of design plans.

With respect to the bus stop, Council's Traffic Manager spoke to a representative of the State Transit Authority on 17 June 2010, where it was confirmed that the Authority supports the relocation of the bus stop in Darling Street, and that this was conveyed to the Roads and Traffic Authority in 2009. However, it is noted that the Roads and Traffic Authority attempted to remove parking and relocate the bus stop in December 2009 without consulting the businesses and residents, and Council successfully appealed to the Land & Environmental Court and the work was postponed until the RTA undertook proper community consultation, including with Council.

#### Part D1.12 - Parking

\* Note: Assessment under this part of the Leichhardt Development Control Plan 2000 is based on information received up until 11 June 2010.

The Objective of this Part is to provide parking on site that reflects the site's proximity to public transport and promote choice in available transport modes and reduce dependency on cars.

#### *Planning Principles*

- *Integrate required quantum of vehicular parking within the design of buildings*

Comment: Proposed car parking is provided within the basement levels of the development, with one access point via Victoria Road and one access point via Waterloo Street, and is considered to be appropriately integrated into the building design, however, it is noted that the quality of the treatment of the interior of the driveway portals need to be considered and that wall finishes and details should be provided.

Proposed car parking exceeds the parking controls of the DCP and issues remain relating to access arrangements to both street frontages as discussed previously.

Therefore, the objectives of this planning principle have not been met.

- *Parking for bicycles should be provided for workers, shoppers and residents of the development*

Comment: This control has been complied with.

- *Parking facilities for people with mobility impairment must be provided.*

Comment: This control has been complied with.

- *Adequate provision and appropriately located car parking will facilitate easy access for people with mobility impairment.*

Comment: This control has been complied with.

#### *Controls*

- *That at the time any Development Application is lodged, any:-*
  - (a) *further reduction in on site parking; or*
  - (b) *compensation for loss of on-street parking from Darling Street;*
    - *be addressed as part of the Traffic Management Plan.*
    - *That retail and commercial traffic ingress and egress from Waterloo Street be restricted to peak hour (peak hour as determined by the RTA for the area).*
    - *The maximum number of car spaces for each nominated use in Column 1 is set out opposite that purpose in Column 2 of Table 12.1 below.*

Table 12.1 – Car Parking

<b>Type of Proposed Use</b>	<b>Maximum number of car spaces to be provided</b>
<b>Amusement Centre</b>	<i>Nil</i>
<b>Child care centre</b>	<i>Nil</i>
<b>Club</b> <ul style="list-style-type: none"><li>• <i>Lounge and bar</i></li><li>• <i>Dining and auditorium</i></li></ul>	<i>5 spaces per 100m<sup>2</sup> gross floor area 1 space per ten seats or 4 spaces per 100m<sup>2</sup> gross floor area whichever is lesser</i>
<b>Commercial</b>	<i>1.5 spaces per 100m<sup>2</sup> of gross floor area</i>
<b>Gymnasium</b>	<i>4.5 spaces per 100m<sup>2</sup> of gross floor area (based on RTA minimum parking requirements for specific land uses)</i>
<b>Professional Consulting Room</b>	<i>2 parking spaces per 100m<sup>2</sup> gross floor area</i>

<b>Residential</b> <ul style="list-style-type: none"> <li>Residents</li> <li>Visitors</li> </ul>	<i>Total number for residents and / or visitors to dwellings shall equate to the minimum in the DCP – 0.6 spaces per 1 bedroom, 0.9 per 2 bedroom and 1.1 spaces per 3 or more bedrooms (This parking rate does not require each dwelling to be provided with a parking space)</i>
<b>Restaurant, café or other refreshment room</b>	<i>5 spaces per 100m<sup>2</sup> of gross floor area and 2.5 parking spaces per 100m<sup>2</sup> of outdoor / semi-outdoor seating areas</i>
<b>Shops and other retail</b>	<i>1.5 parking spaces per 100m<sup>2</sup> of gross floor area</i>
<b>Uses not defined above</b>	<i>1.5 parking spaces per 100m<sup>2</sup> of gross floor area</i>

Comment: Based on the most recent amended plans, which have reduced the number of restaurants to five (approximately 588m<sup>2</sup>), and based also on the provision of an indicative floor plan for the plaza level of the club, Council has assessed the car parking requirement as follows:

<b>Use</b>	<b>Required</b>	<b>Proposed</b>
Residential	125	125
Club	76	121
Retail / Restaurants	159.5	162
Commercial	12	12
Consulting Rooms	12	12
Taxis	Nil	5
Car Share	6	6
Replacement Street Parking	21	21 (not identified on plan)
<b>TOTAL</b>	<b>412</b>	<b>464 *</b>

- \* In manual counting, Council staff could only locate 464 spaces, however, the applicant claims that there are 467 spaces. It is unclear as to where the discrepancy arises.

Given the above, the required total parking for the development is 412 spaces. The proposed total parking is 464\* spaces, therefore, the proposal exceeds Development Control Plan allowance by 52 spaces. The reconciliation of proposed and required car parking has been an on-going matter of dispute and has resulted in numerous changes to the floor plans since the application was lodged in September 2009.

Finally, there is no strategy evident in the applicant's submission to demonstrate how retail and commercial traffic ingress and egress from Waterloo Street will be restricted to peak hour (peak hour as determined by the RTA for the area) in

accordance with the this site specific control of the Leichhardt Development Control Plan 2000.

- *Retain separate parking and servicing areas for residential and non-residential uses on site. Appropriate security measures are to be made on site for residential parking areas.*

Comment: Since the amended plans were notified, the car parking arrangement has been further modified by substantial reduction in the area of basement 6 and changes to basement 5 to accommodate residential car parking within a secure fenced area. This secured fenced area gives rise to a number of concerns. It is not clear for example what provisions would allow visitors access to this area without queuing, and thus compromising vehicle flow and access in other parts of the basement. It is also not clear how public access from the lifts will be restricted to ensure the security of this area. It is further noted that this modified parking arrangement is contrary to the requirements of the site specific Development Control Plan 2000 which requires residential and non-residential access, vehicle circulation and parking areas to be wholly separated for residential and non-residential uses.

With regard to the practicality of access, Council is also concerned that residential visitors attempting to access the restricted basement car parking on levels 5 and 6 would be left stranded at the access gate on level 3 in the event that they are unable to contact the occupant and access can not be obtained. The position of the access gate does not allow stranded vehicles an alternate access to the escape lane, and the only option available to such affected drivers would be to reverse up the primary access ramp from Waterloo Street. This would obviously be extremely difficult or dangerous if other cars are entering or queuing behind them.

It has been suggested that visitors could be provided with a pin entered at the gate. This raises the concern that use of such pin codes could be traded into the community over time to allow unauthorised use of resident and visitor car parking for commuter parking or similar unauthorised use. No management strategy has been provided to demonstrate how visitor parking would be protected from abuse and only used for genuine visitors to occupants of the site. License plate technology such as is proposed for permanent residents and club members would be a cumbersome solution for visitors as it would require residents to have access to the computer system and constantly update visitors vehicle details. An intercom system is the simplest solution but needs to be in a location that allows visitor cars an easy escape option in the event that they are unable to contact the resident.

- *Wholly separate un/loading areas from parking areas and pedestrian routes.*

Comment: The areas are separated, however, the access routes are not. The loading dock and basement parking is shared off Victoria Road and there is also shared access to and from Waterloo Street between residential and non-residential uses contrary to the site specific provisions of the Leichhardt Development Control Plan 2000.

- *No parking permits will be issued to workers or residents.*

Comment: This matter could be addressed via an on-going condition in the event of an approval being granted.



### ***Leichhardt Development Control Plan No. 32 – Design for Equity of Access***

The amended drawings submitted on 11 June 2010 that form the basis of this assessment and the access Review report prepared by Morris-Golding Accessibility Consulting, Final v2 dated 12 March 2010 were reviewed in the assessment of the proposal against the requirements of the Leichhardt Development Control Plan No. 32.

The amended architectural drawings submitted on 11 June 2010 do not incorporate some of the recommendations of the Access Review report, which require design changes, including:

- Club

With respect to sanitary facilities, the Access Report provides that there is an accessible WC on level 1 of the Club and recommends enlargement of the accessible WC in accordance with AS1428.2.

Comment: The plans do not show an accessible WC but shows a Unisex WC. The plans do not show the accessible toilet in accordance with AS1428.2. The enlargement of the accessible toilets will result in reductions in other areas of that part of the building.

- Retail Areas

With respect to sanitary facilities, the Access Report recommends that all accessible toilets have circulation areas in accordance with AS1428.2.

Comment: The plans do not show all accessible toilets have circulation areas in accordance with AS1428.2. The enlargement of the accessible toilets will result in reductions in other areas of that part of the building.

- Commercial Areas

With respect to passenger lifts, the Access Report identifies:

- two lifts near Darling Street and recommends that the minimum width of the each lift be 1300mm to comply with Leichhardt Development Control Plan 32, and
- if car parking is provided for commercial tenancies, lift access to the car parking levels will be required.

Comment: The plans do not show that the two lifts near Darling Street each have the minimum width of 1300mm. The enlargement of the lifts will result in reductions in other areas of that part of the building.

With respect to sanitary facilities, the Access Report advises sanitary facilities have not been documented. Where there are male and female W.C's there shall be an accessible WC provided within the tenancies.

Comment: The plans do not show compliance with the Access Report.

- Residential Areas

With respect to the Adaptable Unit Design – the Access Report states:

*“The architect has provided 5 types of adaptable unit design. In general, all adaptable designs need more design development to ensure the principles of AS4299 are met, in particular the main entry doors.*

*More work is required to the entry doors of some of the unit types, as latch sides clearances of 510mm are required.*

*In general, some of the main bedrooms have suitable internal dimensions to comply with AS4299. However, some of the main bathrooms have suitable internal dimensions to comply with AS4299. However, there are other types that will need to have their bathroom enlarged.*

*In general, the unit types kitchen design have suitable circulation areas but need to be reworked to allow for oven, cook top and associated benches under AS4299.”*

In addition, the report recommends:

*“The area in front of all letter boxes shall be firm to assist wheelchair access. Ensure there is an appropriate unobstructed circulation space of 1550mm in front of all banks of letter boxes, compliant with AS1428.2.”*

Comment: The plans do not show compliance with the Access Report.

- Car Parking

*Retail and Commercial*

With respect to Retail and Commercial, the Access Report states:

*“Ensure the vertical clearance leading to the accessible car bays may not be less than 2300mm above the FFL, in compliance with AS2890.1.*

*Ensure there is a clear space of 2500mm above the FFL for the entire width of the accessible car bay, compliant with AS2890.1.”*

Comment: The plans do not show compliance with the Access Report.

*Residential*

With respect to residential, the Access Report states:

*“It is unclear what accessible car bays have been set aside for adaptable units.”*

In addition, the report recommends that:

*"An accessible parking bay is provided for every adaptable unit, compliant with Leichhardt Municipal Council DCP No32."*

Comment: The plans do not show compliance with the Access Report.

In conclusion: The amended architectural drawings submitted on 11 June 2010 do not incorporate some of the recommendations of the Access Review report. Many of the recommendations made can be suitably dealt with as a condition of any future development consent prior to the issue of the construction certificate such as providing handrails and tactile ground surface indicators, components within lift cars, width of entry doors, illumination levels and signage are all compliant with the standards. However, to achieve lift access to the commercial levels and car parking areas requires redesign of the proposal. The plans should be consistent with the recommendations of the access report to ensure that the proposal meets the objectives of the Leichhardt Development Control Plan No. 32.

#### **4.6 Environmental Planning and Assessment Regulation 2000**

The Development Application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000. The application does not satisfy Clauses 50 of the Environmental Planning and Assessment Regulation 2000 in the following ways:

##### Clause 50(1)

###### *Owners Consent for Bridge*

As noted above, owners consent from the Department of Education and Training for the bridge works that encroach onto the Rozelle Public School site has not been obtained, and therefore, this part of the Regulation has not been met.

###### *Geotechnical Report*

A detailed Geotechnical Report has been submitted with the application, prepared by Jefferey and Katauskas P/L and dated 16 April 2010. The Geotechnical report details proposed methods of excavation, shoring and pile construction, potential vibration emissions and recommendations to be implemented to mitigate impacts on adjoining properties. Among the recommendations, Dilapidation reports are recommended to be with respect to any neighbouring buildings or structures which fall within the zone of influence, and reference to be made to an attached Vibration Emission Design Goals sheet, and compliance with the recommendations of the Geotechnical Report could be conditioned in the event of an approval being granted.

The Geotechnical Report states that some geotechnical works in the form of 5m long permanent rock bolts may be required to stabilise the proposed basement excavation, and that the rock bolts would extend beyond the site boundary. However, it is not known for certain at this point whether any geotechnical works will be required beyond the boundary. That will not be known for certain until excavation for the proposed basement has reached a depth sufficient for an engineer to inspect and make recommendations. A Deferred Commencement consent would not assist in this case as the precise nature of the works will not be known until excavation has reached a significant depth.

In the event of a consent being granted, the consent authority could impose conditions which required appropriate inspections and for recommendations to be implemented. In the event that those recommendations included works (such as rock anchors) extending into the substratum of adjoining lands, the consent authority could require appropriate easements to be created to permit the rock anchors to remain permanently, and for evidence of such easements to be produced prior to the issue of an Occupation Certificate.

#### *Use of Building as an Entertainment Venue, Registered Club or Restaurant*

As previously noted, Clause 50(1) of the Regulation requires that a [Development Application](#) must contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1.

Part 1, Clause 2(0) of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 reads as follows:

*“o) in the case of a development involving the use of a building as an entertainment venue or a function centre, pub, registered club or restaurant-a statement that specifies the maximum number of persons proposed to occupy, at any one time, that part of the building to which the use applies.”*

The applicant's Statement Environmental Effects notes that it is reasonable to expect that the number of employees for any new retail component could be a maximum of one (1) per 5m<sup>2</sup> with a rate of one per 10m<sup>2</sup> for the commercial premises. No specific detail regarding occupancy rates has been provided, including regarding visitor / patron numbers.

The application does not include the fitout and operation of the club and specialty retail components nominated as restaurants. The applicant's Statement of Environmental Effects notes that there are no specific businesses proposed to use the specialty retail spaces, despite some of these spaces being notated on the plans as “restaurants”. It is also noted that the applicant has consistently declined to provide details on the plans regarding the final fitout of the club (apart from an indicative floor plan of the Club at plaza level) and specialty retail components nominated as “restaurants”, on the basis that separate Development Applications will be lodged for these aspects.

The lack of information and detail provided by the applicant noted above makes it difficult for the consent authority to determine exact occupancy rates for the club and specialty components identified as restaurants.

#### *Adequacy of Plans / Information*

Part 1, Clauses 2 and 2A of Schedule 1 of the Regulations requires a development Application to contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1, and this Schedule lists various information to accompany the submission, including site plan, floor plans and elevation drawings, BASIX Certificate and plans showing commitments, and if appropriate, a model of the development.

The applicant has been requested to provide accurate plans and particular detail on these plans in order to facilitate the proper assessment of the application.

The amended plans as submitted are still inaccurate and inadequate in detail. Examples of some of the inaccuracies and deficiencies include (but are not limited to):

1. Lack of details regarding the fitout (i.e. kitchen and / or toilet facilities) to the restaurant uses on the Basement Levels 2 and 1 and the Plaza Level floor plans or Drawings DA.06M, DA.07M and DA.08L respectively, and lack of details of the final fitout of the club component of the development on the Plaza Level and Levels 1 and 2 floor plans or Drawings DA.08L, DA.09L and DA.10L - the plans should show provision of adequate facilities to the club, commercial and restaurant components (such as toilet facilities).
2. Floor plans, sectional and elevational drawings that conflict with one another or contain omissions. Examples of inconsistencies and omissions include:
  - a) Floor plans that do not nominate where sections run through the building e.g. Drawing DA.153F depicts Sections T, U and V, however, these Sections are not identified on various floor plans;
  - b) The design, materials and heights of fences and gates adjacent to the car parking entrances to Victoria Road and Waterloo Street as identified on Basement 1 floor plan (Drawing DA.07M) are not identified on elevational drawings (e.g. Drawings DA23F and DA26F);
  - c) The table identifying car space allocation and numbers on the Basement 3 floor plan (Drawing DA.05M) does not reflect the floor plans (e.g. table nominates 21 displaced spaces, but only 6 nominated on the floor plans.
  - d) Drawings DA.10L-DA.20L (Levels 2-12) provide note/s reading “*Refer to DWG... for additional detail*” i.e. the drawing number is not provided.
  - e) The bottom right hand corner of Drawing DA.22F (NW Elevation) reads “NOTE – REFER TO DA104 FOR DETAIL OF BUILDING C NORTH + WEST ELEVATIONS” – REFER TO DA105 FOR DETAIL OF BUILDING B WEST ELEVATION, however, Drawings DA104 and DA105 have not been provided.
  - f) The bottom right hand corner of Drawing DA.23F (Victoria Road Elevation) reads “NOTE – REFER TO DA104 FOR DETAIL OF BUILDING C + A NORTH ELEVATIONS”, however, Drawing DA104 have not been provided.
  - g) Drawing DA.24F (Rear Lane) – the widths of basements 3-5 as depicted on this drawing are inconsistent with the floor plans (approximately 2.4m difference); basement structural supports that are identified on the floor plans (e.g. at basements 2, 5 and 6) as running through this section are not depicted on this drawing.

- h) Drawing DA.27F (Section A-A) – basement structural supports that are identified on floor plans as running through this section (e.g. basements 3, 4 and 5) are not depicted; structural supports at basements 3, 4 and 5 that are shown on this drawing do not exist on the relevant floor plans; the substation on Waterloo Street is shown as running wholly through this section, but is inconsistent with the relevant floor plan; this drawing shows a western terrace to the club at Plaza Level that does not exist on the floor plans; the width of Building C as depicted on this drawing is inconsistent with floor plans.
- i) Drawing DA.28F (Section B-B) – bicycle parking and residential storage at Basement 6 that runs through this section not shown (these facilities are shown on other plans but not these plans); ventilation plenums adjacent to Waterloo Street that run through this section on various levels not identified.
- j) Drawing DA.30F (Section F-F) – some residential storage at Basement 6 that runs through this section not shown; northern ventilation plenums (e.g. Levels 4 and 5) not identified (such plenums are shown on other sections, but not on this section); this drawing suggests that Stair 11 runs through this section from Basement 6 to Level 2 inclusive, but this is not reflected on the floor plans which depict that this stair only runs through Basement 1 and the Plaza Level;
- k) Drawing DA.31F (Section G-G) – northern residential storage at Basement 6 that runs through this section is not shown; the travelator at Basement 2 that runs through this section is not identified (travelators are depicted on other plans); northern ventilation plenums (e.g. Levels 4 and 5) not identified; the widths of the mall and loading dock at basement 2 do not reflect the relevant floor plan; this plan only depicts one specialty retail area at Basement 2 when the relevant floor plan depicts that two specialty retail areas cut through this section; this drawing does not depict the club component accurately at Level 1 (part of the external elevation of the club at Level 1 should be shown but it is not);
- l) Drawing DA.73F (Waterloo Street Sections) - the planter to the eastern end of the Level 1 rear terrace of Unit D-B1.03 on Waterloo Street that runs through this section is not depicted; privacy screening to the Plaza Level rear balcony of Unit D-B1.03 on Waterloo Street not depicted;
- m) Lack of co-ordination / consistency regarding the depiction of the plaza pergola between floor plans, elevations and sections e.g. Drawing DA.146F (Plaza Section Q) and Drawing DA.147F (Plaza section R-R fail to show the pergola when they should and Drawings DA.30F and DA.31F do not depict the widths of the pergolas accurately;
- n) Drawing DA.150F (Waterloo Street Wall Section 01) - wall treatment shown as TBC – details should be provided;
- o) Various plan inaccuracies and deficiencies as outlined above under:
  - i) The State Environmental Planning Policy No. 65 assessment;

- ii) The site specific controls relating to building envelope and setbacks and plaza overhead clearance requirements and car parking and access; and
  - iii) Landscaping.
  - p) Sketch plans that are inconsistent with the official Development Application drawings e.g. Drawing SK04 shows the Darling Street building contains three (3) levels, which conflicts with other plans which show this building only contains two (2) levels.
3. Plan and BASIX Certificates are inconsistent.
  4. Lack of consistency between plans and various supporting documentation e.g. ESD Report, Access Report etc.
  5. Two models have been provided, one of which does not depict the development last notified accurately. As previously noted, amended plans have now been received, and both Models now do not depict the new proposal correctly.

It is further noted that perspectives have not been altered to correct amendments carried out and inaccuracies, but rather, have been deleted altogether e.g. Perspectives 1-5 (Drawings DA.131-135).

Given the above, there remains a lack of consistency between plans, elevations and sections and submitted supporting information and documentation. The applicant's response to concerns raised regarding plan errors and inconsistencies in the covering letter dated 11 June 2010 attached to the amended plans reads:

*"The total package of information now equates to approximately 160 drawings of which Council have now requested additional information...We believe that these minor inconsistencies should not prevent the Council from assessing the application.*

*We note that in some circumstances the documentation and in particular the sectional information has been simplified for clarity. This is standard practice within the industry and we do not consider this an inconsistency. We also note that some sections do not illustrate every level as these were prepared to illustrate a boundary condition and not what occurs below and above this area...*

*...We have been through the documentation with Council Planners and have remedied any minor drawing errors."*

As noted above, the applicant has not remedied drawing errors, some of which are not minor and that raises questions with respect to certainty of construction if a consent were granted, and has implications in terms of Building Code of Australia compliance and traffic and car parking matters. Given the above, the objectives of Clause 50(1) have not been met in this regard.

### Clause 92(1)(b) of the Regulations

Clause 92(1)(b) of the Regulation Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. In the event of an approval being granted, the consent authority would need to ensure that the demolition of the existing structures is carried out in accordance with comprehensive construction/demolition/waste management plans.

### Clause 144 of the Regulations

Council's Building Surveyor has provided building advice regarding the proposal. The intent of this building advice, and all previous building advice, is to consider the proposal to ensure that compliance with the Building Code of Australia is achievable without involving any modifications or substantial modifications to any future development consent. Due to the nature of this proposal, as provided by the Clause 144 of the Environmental Planning and Assessment Regulations 2000 (Referral of certain plans and specifications to New South Wales Fire Brigades), should any development consent be provided, the NSW Fire Brigade (NSWFB) will need to consent to the proposal prior to the issue of the construction certificate.

The advice of the Building Surveyor is provided in response to further information submitted with the application on 11 June 2010, being:

- Applicant letter dated 11 June 2010;
- Appendix 5 - BCA Report prepared by Steve Watson & Partners dated 19 March 2010;
- Appendix 6 – Fire Safety Schedule prepared by AECOM dated 26 August 2009;
- Appendix 24 – AECOM explanation of residential construction details dated 30 September 2009;
- Appendix 33 – Fire Engineering Report prepared by AECOM dated 12 March 2010; and
- Minutes of Meeting, dated 24 March 2010, was prepared by AECOM. The meeting was between AECOM, NSWFB, dko Architecture and Steve Watson & Partners.

It is noted that:

- Council has sought to confirm from the NSWFB the Minutes of Meeting, prepared by AECOM. At the time of finalising the report, no written response had been received;
- Council has contacted the NSWFB on numerous occasions as recently as 16 June 2010. Prior to the amendments submitted with the application on 11 June 2010 written advice from the NSWFB had been received raising several concerns which are discussed below; and



- Following the Minutes of Meeting, dated 24 March 2010 no revised BCA Report prepared by Steve Watson & Partners or Fire Engineering Concept Design Report prepared by AECOM was submitted with the application on 11 June 2010.

#### *Assessment*

- The NSWFB provided written advice to Council on 12 February 2010. The following comments made are combined comments from both the NSWFB and Council;
- Due to the nature of the development, including the proposed Alternative Solutions for the subject building, the application was referred to the NSWFB;
- The same concerns remain as previously raised with the applicant:
  - The documentation does not clearly detail if sprinklers will be provided throughout the building. It is the NSWFB preference that sprinklers be provided throughout the building. Further clarification, details and evidence would need to be presented prior to further consideration.
  - The architectural plans shows two stairways (Stair 11 and Stair 12) provided to the residential levels in Residential Tower C. Part D1.2 of the deemed-to-satisfy (DTS) provisions of the BCA requires two fire isolated stairways for the residential levels in Tower C. According to Part D1.7 (DTS) of the BCA each fire isolated exit must provide its own independent egress and discharge directly to a road or open space. In addition, Part D2.4 (DTS) of the BCA requires the separation of rising and descending stair. However, there does not appear to be two fire isolated stairways with its own independent egress to a road or open space. Stair 11 exits into the Club level on Level 1 or leads to another stairway that leads to another level below. In addition, Stair 12 exits into the Club level on Level 1 or leads to another stairway that leads to another level above or below. Although an alternative solution can be considered at the construction certificate stage the NSWFB have raised concern with the stairways in this building. The NSWFB have advised that further clarification, details and evidence would need to be presented prior to further consideration;
  - The architectural plans appear to show two fire isolated stairways provided to Residential Tower A. It is unclear whether the proposal can comply with Part D1.7 of the deemed-to-satisfy provisions of the BCA, for instance, stair 3B exits into an enclosed and covered combined residential and commercial lobby. In addition, stair 3C exits into a pathway adjacent to the Darling Street laneway in which a person will be exposed to openings (doors and glazed windows) within the plaza level component of the building along the pathway that leads to a road (Victoria Road, Darling Street and Waterloo Street). Although these matters can be considered at the construction certificate stage the NSWFB have raised concern with whether two fire isolated stairway have been provided and recommended that further clarification, details and evidence would need to be presented prior to further consideration;

- The architectural plans do not show a fire isolated stairway provided to Residential Tower B. Part D1.7 (DTS) of the BCA each fire isolated exit must provide its own independent egress and discharge directly to a road or open space. It is unclear whether the proposal can comply with Part D1.7 of the deemed-to-satisfy provisions of the BCA, for instance, Stair 9 exits into an enclosed and covered lobby. Although these matters can be considered at the construction certificate stage the NSWFB have raised concern with fire isolated stairways and recommended that further clarification, details and evidence would need to be presented prior to further consideration;
- The configuration of the building and towers does not appear to be conducive to fire brigade intervention or be equivalent to intervention activities for buildings under 25 metres - in particular for intervention activities relating to NSWFB aerial appliances. In addition, little clarification or detail on the main entry point as well as the location and provision of fire services within the building has been provided. Locations of fire control centre facility, fire hydrants, boosters and pumps needs to be provided. Further clarification, details and evidence would need to be presented prior to further consideration. Although the amendment plans now shows a fire control centre facility room it is unclear whether the NSWFB are satisfied.
- It is understood that the stairs from the high rise portions will link to the club level stairs and discharge into a lobby prior to a road or open space. The NSWFB has concerns regarding this option and would not provide support as an alternative solution in this instance given the information provided. It is the NSWFB preference that the egress from the two sections of the building be separate, and exit directly to a road or open space.
- In addition it is also the NSWFB preference that the residential towers (that have an effective height of greater than 25m) be provided with two separate egress stairs. This is based on the potential egress issues relating to the occupation of the club level and residential towers as well as the ingress issues for attending fire fighters. The joining of the egress points with a reduction of egress width are of serious concern.
- There are several recorded serious fire events attended by the NSWFB as well as other fire agencies within Australia and other areas of the world where the reduced aggregate egress width has resulted in multiple casualties due to lack of appropriate egress in a fire event. It is for this reason that preference is made for the residential towers to be provided with two independent fire isolated egress stairs.
- The reduction of the fire resistance level's (FRL's) below 50% of the prescribed requirement under the Building Code of Australia (BCA) is unlikely to be supported without significant reasoning. The reduction may be considered based on a review of a detailed hazard and risk assessment.

- Further information and clarification on the extent and reasons for the reduction would need to be presented prior to further consideration.
- A detailed fire engineering brief process is recommended to be undertaken between all relevant stakeholders.
- With respect to the proposed glazed construction to form a part of a fire wall separating the club retail and driveway, further clarification prior to any further consideration is required. A detailed specification and evidence of suitability would be required to justify the proposed alternative solution. A detailed fire engineering brief process is recommended to be undertaken between all relevant stakeholders.
- The increase of travel distance greater than 50% of the prescribed requirement under the BCA is unlikely to be supported without significant reasoning and provision of enhanced fire safety systems. There are a number of examples of non-compliances with the travel distances as set out in Items 5 & 6 of Table 4-1 of Fire Engineering Report prepared by AECOM dated 12 March 2010. The NSWFB has also recommended that a detailed fire engineering brief process be undertaken between all relevant stakeholders.
- The Retail / Commercial / Club areas do not show sufficient sanitary facilities for all persons. The architectural plans need to show adequate sanitary facilities for all persons on each level in accordance with Part F2 of the BCA.
- The proposed floor to ceiling heights are difficult to understand. The plans need to make true allowances for concrete slab thickness, placement of services including hydraulics, plumbing, electrical, insulation, floor finishes, ceiling finishes and required sound and fire ratings. As such, making these appropriate allowances would mean floor to ceiling heights of less than 2.7 metres.
- The plans do not demonstrate that the balustrade heights will be compliant with the BCA. This needs to be shown throughout.
- The Fire Engineering Concept Design Report prepared by AECOM has Table 4-1 on pages 5 & 6. This table indicates the non-compliances with the BCA requiring alternative solutions in which both the Council and NSW Fire Brigade have concerns with.

Comment: The proposal demonstrates numerous non-compliances with it the Deemed-to-Satisfy provisions of the Building Code of Australia. To do so would require significant design changes. The proposal could meet the performance requirements of the Building Code of Australia by an alternative solution approach to each of the Deemed-to-Satisfy non-compliances, but this entails a substantial level of reliance on post-determination certification (including approval from the NSWFB). This may in fact result in significant delays in obtaining a Construction Certificate and potentially additional financial costing implications. It is considered that the application lodged for consideration is of insufficient detail to demonstrate compliance/unclear reliance on as-yet unarticulated solutions with no certainty with

regards to the design outcome. This is considered to be unacceptable for a development of this size/scope where certainty of outcome is critical in order to ensure that no unanticipated design consequences are incorporated at a later stage of the development process not anticipated by the community and the consent authority. The fire safety concerns means that the design of the development is not certain.

It is further noted that Council engaged Environet Consultancy P/L to carry out a Building Code of Australia Compliance Assessment. This independent Compliance Assessment has been received by Council and is dated 22 June 2010, which reinforced the concerns raised above by Council's building Surveyor.

It is considered that the above issues raised be addressed prior to any consent being contemplated in order to ensure that the proposal raises no issues with respect to meeting the intent of Clause 144 of the Regulations.

#### **4.7 The likely environmental impacts both natural and built environment, and social and economic in the locality**

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way.

##### Social and Economic Impacts

Council's Social Impact Assessment Policy and guidelines require that a Social Impact Assessment be submitted with the application.

The applicant submitted a Social Impact Assessment, prepared by GHD. Council's Community Development Section reviewed this assessment, together with Judith Stubbs & Associates, who raised the following concerns:

##### *A. Comments relating to the Balmain Leagues Club Report for the Balmain Mixed use Development Social impact Assessment April 2010*

###### *A1. Developer submission*

The proponent acknowledges that a lack of detailed information on the operation and proposed functioning of the project means that impacts can not be accurately assessed until more definitive and specific information is provided about the development. (SIA Page 3; p16; p24;p26; P32) Proponent's Social impact Assessment states "A comprehensive Social Impact Assessment will need to be undertaken at the subsequent site specific stages... this is not a comprehensive Social impact Assessment due to the fact the proposal is at the Concept stage with limited detail available" (p37).

###### *A2. Comment on omissions and inadequacies in Social Impact Statement provided by Developer*

Consideration of social impacts and economic impacts of the proposed development is required in accordance with *EP&A Act 1979 sec 79 C 1*.

1. Inadequate information provided by proponent to enable consideration of impacts of retail and commercial. Omissions include:
  - Data on Uses / types of businesses.
  - Data on Workers (possible up to 2200).
  - Data on Customers.
2. Inadequate information provided by proponent to enable consideration of impacts associated with demographic composition of targeted groups to inhabit the residential units, such as Predicted services for residents
3. Inadequate information provided by proponent to enable consideration of measures to address crime and public safety, particularly the cumulative impacts of the operation of the Club and operation of commercial and retail:
  - Alcohol-related incidences of crime.
  - Management of public space appropriate to the mix of uses
4. Inadequate information provided by developer to enable assessment of the interaction between the proposed development and the existing community.
5. Inadequate information provided by proponent to enable consideration of impacts on the local economy.
6. Inadequate information provided by proponent to enable consideration of the cumulative impacts of workers and residents on local community services.

*A3. Comment on social impacts of elements identified by Developer in the overall proposal*

1. The Tigers argued strong support for the MasterPlan rezoning and the basis for the development on the grounds of positive contribution of the Balmain leagues Club to the Community, and the continued value of the Club to local residents:
  - Contrary to the Developer's Social Impact Assessment, Community Development Support Expenditure funds have not been available for community access in 09/10. Instead, the Club has allocated funds to groups already associated with the Club including BetSafe. A single grant of less than \$5,000 was made available to a local organisation on the recommendation of a local committee; and
  - There is little or no detail made available of the interior of the Club or the facilities proposed for members and guests.

Accordingly no conclusions can be drawn regarding the benefit / amenity of the Club.

2. Change in residential amenity and culture through changing character of development in Rozelle:
  - Many of the important decisions have been made, with respect to zoning, site ratio and height for example, however the requirements of the Leichhardt Development Control Plan 2000 and the Design Review Panel may mitigate impacts to some extent; and
  - The Developer does not substantiate the claim “Given the predominant “village” character and associated community activities of the Rozelle area, the integration of retail and commercial spaces within the proposal is considered to be consistent with the related social activities and physical activates and physical character of the broader area”.
3. The value proposition for the Masterplan rezoning was based on the **viability of the proposed supermarket and specialty retail model**:
  - Insufficient data provided by developer to enable consideration of the mix of the model and impacts of retail and commercial activities on neighbouring retail and commercial activities in Rozelle;
  - No research has been carried out by the Developer on the capacity and impact of the restaurants, or the viability of the business model with 26% of specialty retail proposed as restaurants, or impact on adjoining business zone.
4. In the absence of data on uses, each of the **five (5) specialty retail identified as restaurants** is capable of applying for a liquor license under NSW state legislation, in addition to the (unknown) number of bars / alcohol retailing locations inside the Club
  - The existing Club is at the centre of a ‘hotspot’ for assaultive violence. The mitigations in the SIA do not consider off-site violence in surrounding streets
  - The social environment associated with clustering of licensed premises could be impacted by heavy drinking and high levels of intoxication, generally permissive environment with high levels of rowdy behaviour and underage drinking.
  - While recent crime statistics indicate that victims of alcohol-related assault tend to be in the 30-39 age group, and tend not to be patrons of clubs in Leichhardt, the additional clustering of licensed premises potentially arising from restaurants in the development may adversely impact young people.

- Measures to manage the clustering of licensed premises would need to be identified in a revised and updated Security and Management Plan. (See Section B Below).
5. The revised plan for the Plaza (June 2010) indicates a **reduction of public space**, with perimeters enclosed potentially for retail purposes. This is a negative social impact, and fails to meet the claims by the Balmain Leagues Club of providing public space for the community. Instead, the circulating space has been significantly reduced, and rendered unattractive as a meeting place.
6. **Reduction in public space particularly impacts younger people**, noting that:
- Public spaces play a range of important roles in the lives of young people. They are critical sites for what has become termed 'youth development', acting as venues for learning and developing social competence, independence and interdependence.
  - Shopping centres in particular are places where young people gather, socialise, and interact with the general community in a variety of ways.
  - The baby boom in Rozelle, Lilyfield and the wider local government area will see a new generation of teenagers in the period from 2013 onwards.
  - Possible mitigation could be achieved by consulting young people and developing protocols for public space that are youth friendly, addressing elements such as:
    - Friendliness and acceptance by management, staff and security in a safe and non-violent environment.
    - Accommodation of difference;
    - Cheap food and drinks;
    - Availability of support and help available;
    - Under 18 oriented activities including entertainment;
    - Allowed to hang out;
    - Multiple options for different groups and identities;
    - Where young people are not hassled by police or security, with the ability to manage their selves;
    - Implement and support continued security training regarding interactions with youth e.g.
      - Provide information and feedback exchange between relevant community groups – for examples - Community Safety Committees;
      - Reply to grievances/complaints that have been lodged; and

- Facilitate the involvement and participation of young people in providing input into the establishment of protocols.
7. **Impact on local services** is not able to be assessed, however we would expect cumulative pressure from increased residential population and increased worker population, noting that:
- Childcare facilities in the Immediate locality and Secondary locality surveyed in 2009 indicate no vacancies, and waiting lists at childcare facilities in the immediate and secondary localities. Leichhardt Council Community and Cultural Facilities Audit September 2009; and
  - Out of a capacity of 644 aged care places in the local government area there was a total of 6 low-care vacancies, and no high-care vacancies when surveyed in 2009. Leichhardt Council Community and Cultural Facilities Audit September 2009.
8. The **Proposed footbridge (over Victoria Road )**, is a place of potential entrapment for pedestrians particularly, and is unsuited to people with a fear of heights . It is not appropriate given lack of clear line of travel, and poor Crime Prevention Through Environmental Design considerations.

B. Comments relating to the Balmain Leagues Club Report for Rozelle Village Social Impact, Security and Comprehensive Management Plan March 2010.

*B1. Developer submission*

*Proponent identifies that The Plan has been developed primarily for the Leagues Club, in accordance with licensing requirements. As the Rozelle Village development is current at concept stage only, insufficient information is available to prepare a comprehensive management plan for the entire development. (p2)*

*B2. Comment:*

The proposed mixed use development potentially impacts the amenity of the immediate locality in regards to community safety. The cumulative impacts of the operation of the Club and the proposed development need to be considered. As outlined in Section A2 above, insufficient data on the mixed use development and the fit-out and operation of the Club has been provided to assess:

the impacts, including the cumulative impacts of the Club and mixed use development on

- Amenity of the neighbourhood
- Traffic impacts



- Interaction between club patrons and residents, workers, visitors to mixed use development

the impacts and the requirements for management and mitigation measures in regards to

- Security and safety measures operating within the Club and transition into mixed use development
- Management of the security in the mixed use development
- Public space protocols and interaction with young people in the retail and commercial and public space areas.

Comment: As noted throughout this report, concern is raised regarding the lack of detail regarding the operation and functioning of various aspects of the development. Providing further information and assessment as required by Council's Community Development Section would assist in resolving various issues that remain outstanding regarding the potential social impacts of the development, and this should be resolved prior to any consent being contemplated.

### Environmental Impacts

One of the key objectives of Local Environmental Plan 2000 is as follows:

*“(1) The general objective for ecologically sustainable development is to encourage the incorporation of the principles of ecologically sustainable development in the design and management of the built and natural environment to:*

- (a) provide for the preservation of natural resources to ensure their availability for the benefit of future generations, and*
- (b) minimise negative impacts of urban development on the natural, social, physical and historical environment, and*
- (c) maintain and enhance the quality of life, both now and for the future.”*

The application does not comply with such fundamental requirements as sunlight access in accordance with State Environmental Planning Policy No. 65. The application has not demonstrated that this objective is met.

### Economic Impacts

The economic success of this development will be judged on two criteria. Firstly, how the development interrelates with the Mainstreet shopping precinct in a compatible and mutually supportive way. It would be contrary to the key objectives of the site specific Local Environmental Plan if the development was to result in business closures along the Mainstreet. Secondly, that the shopping centre in itself operates effectively and safely rather than becoming a space where competing non-complementary uses result in degraded amenity and ongoing conflicts between stakeholders, as has happened with other similar spaces.

Given the absence of detail in relation to the proposed tenancies (Council does not in fact have before it a development application for the club, for example), it is

difficult for Council to conclude with a comfortable degree of certainty that either of the above tests would be satisfied.

#### **4.8 The suitability of the site for the development**

The site is zoned Business and is subject to a series of specifically targeted objectives. The development has not provided an acceptable response to this matter.

#### **4.9 Any submissions made in accordance with the Act or the regulations**

The Development Application was initially notified for a period of thirty-eight (38) days between 21 January 2010 and 1 March 2010. The last round of notification was between 22 April 2010 and 24 May 2010.

The notifications included:

- Letters sent to approximately 19000 properties.
- Four yellow site notices placed on the site.
- Listing under the notification section on Council's website.
- Advertisement in the local paper.

A number of submissions received during the second round of notification were follow-up submissions from persons who had previously objected, whilst other submissions were from persons not previously represented.

##### In support:

A total of 35 individual letters containing 39 signatures were received in support of the development. There was also a petition in support of the development. The petition contained a total of 559 signatures. Of those 559, a total of 234 provided an address as opposed to merely a signature. Of the 234 addresses provided, 70 (or 30%) were from the Leichhardt Municipality.

The letters/petitions in support identify the following reasons for their support:

- The Club has been part of the Balmain community for a long time and supports a number of local organisations and Council should approve the development so that this integral part of the community can continue.
- The Club provides services and entertainment for elderly members of the community which would otherwise be lost.
- The development will provide additional car parking in an area where carparking for local residents and shops is very limited.
- The development will provide additional shops, especially a supermarket, in an area which is not currently well-provided in this regard.
- Several letters in support expressed the authors , or relation of the authors, interest in buying a unit.

- The development should be approved speedily so that elderly club members do not have to travel to Five Dock.
- Support for easier pedestrian access over Victoria Road via the new bridge.
- The development will add to the physical renewal and economic vitality of the area.
- The development will help to reduce the number of car trips by locals.

Response: Council is strongly supportive of the retention of the Club as part of the community of the Rozelle/Balmain area. There is also broad agreement that some level of physical and economic renewal is warranted on the site.

### Objections to the development

Council received letters objecting to the proposal from 347 signatories. Of the 347 individuals who signed or co-signed a letter of objection 298 (86%) clearly identified themselves as living in, or owning property within, the Leichhardt Municipality. The remaining 49 either live outside the municipality, or did not identify their address or property interest.

The submissions opposing the development identify the following reasons for their concerns:

- The proposal exceeds the floor space ratio limits identified in Amendment 16 to Local Environmental Plan 2000.
- The proposal exceeds the number of storeys limits imposed by Amendment 16 to Local Environmental Plan 2000.
- The proposal provides for car parking in excess of the maximum provision of Development Control Plan 2000.
- The number of adaptable units does not comply with Local Environmental Plan 2000.
- The number of storeys in the Darling St infill building exceeds the permitted maximum.
- The traffic impacts of the development will be severe.
- The traffic modelling, and consequently, conclusions, are inaccurate and have not properly accounted for Saturday traffic impacts.
- Management of construction traffic has not been properly identified.
- Implication for on street parking for high-street retailers has not been properly identified or assessed.
- Management of construction related noise, vibration, and dust.

- Extent of site contamination has not been fully addressed.
- The development achieves only minimum sustainability measures – more should be required.
- Strongly oppose 24 hour trading.
- Concerned that the number and type of shops/restaurants/supermarket will have a significant effect on the financial viability of the mainstreet.
- There should be no pedestrian access from Waterloo St to the plaza, commercial area, club or shops in order to retain the residential character of Waterloo Street.
- The plaza does not integrate well with the mainstreet.
- No Social Impact Statement has been provided.
- Concerned about construction impacts on operation of Rozelle Public School, and safety of children walking to school.
- The 146 extra dwellings will place too much pressure on existing over-stretched services such as the school and local child care centres.
- Access to basement parking being limited to certain users from and to Waterloo St is impractical.
- The design of the buildings is not in keeping with the local character.
- Existing parking on Darling Street outside shops should be retained.
- Proposed pedestrian bridge is too close to school.
- Bridge will force school children into shopping precinct and close to club.
- Private developer should not be able to buy public (school) land to facilitate a profit making venture.
- Design of bridge is ugly.
- Development will prevent the construction of the metro station in the future.
- Acoustic report is deficient with regard to Waterloo St.
- Concerned re. the proximity of smokers terraces and dwellings.
- Saturday morning traffic generation in local streets is much higher than Thursday peak therefore traffic modelling needs to examine this implication in detail.
- Traffic generated on Waterloo and Moodie Streets will exceed RTA guidelines.

- The Development Application should be judge solely on its own planning merit and not as a means of ensuring the Tigers return to Rozelle.
- General concern with process undertaken so far – stemming from initial involvement of Club member Councillors who voted in favour of the Local Environmental Plan amendment, and membership of other senior Council staff, without full acknowledgement of potential conflicts of interest.
- There is no guarantee that approval of this development will ensure the return of Tigers.
- If Tigers intended to return would there not be a fully detailed fitout and floor plan of the club – none such has been submitted.
- Local Environmental Plan amendment 16 and Development Control Plan amendment should be reviewed by either the Department of Planning and/or Joint Regional Planning Panel and rescinded.
- All commitments of the Voluntary Planning Agreement should be adhered to.
- Proposal does not comply with Development Control Plan restrictions on who can access/ingress from Waterloo St, and when.
- No Club set-down facility other than in the basement which will not be readily accessible for casual drop off/pick up.
- How can Council assess a Social Impact Statement without full plans of the proposed Club fitout?
- Generally, design, height and scale of the buildings, particularly the tallest tower, is unacceptable and not in keeping with the area.
- Club has no clearly identifiable entry point but is “mixed up” with other uses.
- Proposed open space will be cluttered and narrow and will not function well as a public plaza.
- Insufficient landscaping to “green” the spaces.
- Inadequate and unworkable un/loading arrangements.
- State Environmental Planning Policy No. 1 objection to floor space ratio non-compliance is not convincing – exploits ambiguity and poor drafting rather than presenting compelling reasons for non-compliance.
- The proposed bus service appears designed to deliver patrons directly to the Club in the manner of the Star City service, rather than being a genuine community service.
- Inadequate urban design compatibility with adjoining properties.
- Overshadowing and overlooking of nearby properties.

Response: In summary, most of the objections have raised concerns with regard to Floor Space Ratio, traffic, height and appearance of the proposed development. These concerns have largely been addressed in the preceding report. See various comments with regard to traffic, urban design, social impact and compliance with the Local Environmental Plan and Development Control Plan.

The main areas where Council staff do not share the concerns of objectors are in relation to:

- Pedestrian access off Waterloo St – this aspect of the proposal is encompassed by the Development Control Plan and the development will work better for its inclusion;
- Overshadowing off nearby residential properties – the site specific Development Control Plan identified parameters for this aspect, and the application complies with those parameters.
- Existing parking on Darling Street should be retained – all the traffic reports undertaken to date emphasise that unless this parking is removed traffic movements along Darling St will be fundamentally unacceptable. The Development Control Plan acknowledges this.
- Extent of contamination on the site has not been fully assessed – sufficient information has been provided to identify likely contamination and appropriate management of this factor.
- The integration of the Plaza with the mainstreet – the plaza is directly connected to Darling Street, including an arcade with shops etc which provide a direct line of sight and disabled- access friendly connection.

With regard to the other concerns raised objecting to the proposal, Council staff concur with those matters.

#### **4.10 The public interest**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

Given the numerous non-compliances with statutory and policy controls identified previously, the approval of this application would be contrary to the public interest.

### **5. SECTION 94 CONTRIBUTIONS**

Section 94 levies would be imposed by way of a condition of consent in the event of an approval being granted. These figures would be calculated in accordance with Council's Section 94 plans. It should be noted, however, that an accurate assessment can only be made once the existing gross floor area of the Club is confirmed by way of floor plans. Council does not have this information at present as existing floor plans of all current buildings on the site were not submitted with the

development application. This information is necessary in order to work out the credit which the existing buildings currently generate. Any levies would also have to include the \$20 000 cap imposed by the Department of Planning. A preliminary estimate based on a floor space figure provided by the applicant but as yet unconfirmed puts the total Section 94 figure at approximately \$3.1 million.

## **6. INTERNAL REFERRALS**

The Development Application was referred to the following Council Officers:

### Corporate and Information Services

Issues and concerns raised by the Director, Corporate and Information Services, including with respect to the Voluntary Planning Agreement relating to the site, have been addressed previously in this report. The major issue relates to the bridge that forms part of the bridge and the lack of owners consent from the adjoining Rozelle Public School site in which the bridge encroaches.

### Building

Issues raised by Council's Building Surveyor have been noted above under the Environmental Planning and Assessment Regulation 2000 assessment of this report. Council's Building Surveyor does not support the application in its current form.

### Drainage Engineer

As discussed above under the Leichhardt Development Control Plan 2000 assessment, stormwater issues remain outstanding.

### Traffic Engineer

As discussed above under the Leichhardt Development Control Plan 2000 assessment, there are numerous traffic issues that remain unresolved, and Council's Traffic Engineer does not support the proposal as submitted.

### Heritage Advisor

Council's Heritage Consultant has raised concern with respect to the demolition and replacement building infill on Darling Street and the design of the pedestrian bridge and detrimental impacts on the Conservation Area and nearby heritage items. Concerns relating to the design of the Darling Street infill and the pedestrian bridge were generally reinforced in the Design Review Panel assessment noted above.

### Community Development

As discussed above, the Social Impact Assessment is unsatisfactory, and there are a number of social and access issues that remain unresolved, and therefore, Council's Community Development Section does not support the proposal in its current form.

### Landscape Officer

As discussed above, the submitted landscape plans are inconsistent with the architectural plans, and any issues raised by Council's Landscape Assessment Officer could be conditioned in the event of an approval being granted.

#### Environmental Officer

As discussed above, the proposal raises noise issues that have not been satisfactorily resolved by the applicant's acoustic experts. Until these matters are resolved, Council's Environmental Officer does not support the application.

#### Waste Services

As discussed above under State Environmental Planning Policy No. 65 discussions, the proposal could be conditioned to ensure the requirements of Council's Waste Services Section are met.

### **7. EXTERNAL REFERRALS**

#### Roads and Traffic Authority

As previously noted, Roads and Traffic Authority concurrence was received on 21 April 2010, however:

- Council's Engineers have raised a number of concerns relating to traffic, access and egress related matters and non-compliance with the AS2890; and
- There are concerns relating to the design of the bridge, and the applicant has failed to obtain owners consent for this component, which must form part of the application given that the provision of a bridge forms part of the Voluntary Planning Agreement for the site.

These issues can not be resolved via conditioned in the event of an approval being contemplated.



### NSW Maritime

NSW Maritime advised via written correspondence dated 22 April 2010 that they raised no objections to the proposal.

### NSW Police

Council receive correspondence dated 16 April 2010 from NSW Police raising no objections.

### Civil Aviation Authority

The site lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 150 feet (45.72 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The matter was referred to the Civil Aviation Safety Authority, and a response from the Authority was received on 21 April 2010. The Civil Aviation Safety Authority (CASA), under Instrument Number: CASA (BC) 01/1998, raised no objection to the erection of the buildings at the heights nominated, on the following grounds:

- It is to be inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- Should the height of any temporary structure and/or equipment be greater than 150 feet (45.72 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Information required by the Authority prior to any approval is to include:

- The location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
- The swing circle of any temporary structure/equipment used during construction;
- The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
- The period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.

Any application for approval containing the above information, should be submitted to the Authority at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.

It is noted that, the height of the prescribed airspace at the site is 156.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, *"a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved"*.

The requirements of the Civil Aviation Safety Authority would need to be enforced by conditions on any consent granted.

#### Australia Post

The Operations Manager (Strawberry Hills) for Australia Post NSW has advised that the location of private letter boxes inside secured foyers is not acceptable and the location of letter boxes would need to be redesigned to comply with Australia Post requirements.

### **8. CONCLUSION**

The Development has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The application has been subject to intensive assessment. This has resulted in amendments to the proposal since its lodgement in September 2009.

However, certain critical concerns remain unresolved. These include traffic management in surrounding streets, particularly smaller local streets; the failure to separate unloading, business and residential parking; the over-supply of on-site parking; the ESD performance of the buildings; non-compliance with fundamental requirements of State Environmental Planning Policy No. 65 / Residential Flat Design Code, including solar access to dwellings and floor-to-ceiling heights; the failure of the buildings to achieve iconic design outcomes; the incompatibility of the Darling Street infill building; the non-dedication of the 3m strip of land along the Victoria Road elevation as recommended by the Design Review Panel; the inadequacy of the Social Impact Assessment; Visual and acoustic privacy protection between development on the site and adjoining properties; the incremental privatisation of the public plaza; failure to obtain owner's consent for the pedestrian bridge; and the design of the pedestrian bridge and the impacts of the bridge location on the heritage item of Rozelle Public School.

It is maintained that the application does not meet the performance tests of State Environmental Planning Policy No. 65, does not meet fundamental objectives of the site specific controls of the Local Environmental Plan 2000 planning controls, nor the principles and guidelines of the site specific controls of the Leichhardt Development Control Plan 2000. Under these circumstances, the test of SEPP 1 for justification of the breach of development standards, is not satisfied.

The application is recommended for refusal, for these reasons.

## 9. RECOMMENDATION

That the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979 refuse the Development Application No. D/2009/352 for demolition; excavation; remediation of the site; construction of a mixed use development including: 145 dwellings within townhouses and apartments on Waterloo Street and three residential apartment buildings located on the northern, southern and western portions of the site, retail shops, restaurants, a supermarket and commercial offices, a public plaza, a new leagues club and a new infill building on Darling Street; parking for 467 cars and loading and unloading bays; and construction of a pedestrian bridge across Victoria Road and located partly on Rozelle Public School at 138-152 & 154-156 Victoria Road; 697 Darling Street; & 1, 3, 5, & 7 Waterloo Street, and 663 Darling Street, Rozelle for the following reasons.

1. The proposal does not satisfy, or has not demonstrated compliance with, the provisions and objectives of Clause 50(1) of the Environmental Planning and Assessment Regulation 2000 on the following grounds:
  - a) The proposal involves the construction of a pedestrian bridge that forms part of the Voluntary Planning Agreement associated with the development site, partly encroaching the Rozelle Public School site at 663 Darling Street, Rozelle, and the consent of the owner of that land, the Department of Education and Training, has not been obtained or provided;
  - b) Inadequate information and detail has been provided by the applicant to determine exact occupancy rates for the club and specialty components identified as restaurants; and
  - c) The lack of consistency between plans, elevations and sections and submitted supporting information and documentation.
2. Some of the Material Public Benefit Contributions of the Voluntary Planning Agreement relating to the site have not been included in the Development Application, and which are reiterated in the site specific controls of the Leichhardt Development Control Plan 2000.
3. While the proposal involves the construction of a pedestrian bridge as required by the Voluntary Planning Agreement relating to the site, the consent of the owner of No. 663 Darling Street, Rozelle in which the bridge encroaches has not been obtained or provided, which means that all the Material Public Benefit Contributions of the Voluntary Planning Agreement can not be met based on the submitted proposal.
4. The proposal breaches the total, retail and residential floor space ratio development standards and the number of storeys development standard that apply to the site pursuant to Part 3(4) of the Leichhardt Local Environmental Plan 2000, and the accompanying State Environmental Planning Policy No. 1 Objections have not established that compliance with the standards is unnecessary or unreasonable, nor have they established that the proposal meets the underlying objectives of the site specific planning controls contained

in Part 3(2) of the Leichhardt Local Environmental Plan 2000 and Part D of the Leichhardt Development Control Plan 2000.

5. The application has not satisfied the aims of State Environmental Planning Policy No. 64 – Advertising and Signage in that insufficient detail and provision has been made for the likely signage demands of end-users of the site, and no informed assessment can be made of the urban design implications of those signage requirements.
6. The proposal does not satisfy, or has not demonstrated compliance with, all of the design quality principles of State Environmental Planning Policy 65 – Residential Flat Design on the basis that it does not comply with the following provisions of the Residential Flat Design Code:
  - a) Part 01 – Local Context with regard to whether the development is in keeping with optimum capacity of the site and local area;
  - b) Part 02 – Site Design with regard to matters including:
    - i) Visual Privacy - particularly with regard to adverse visual privacy conflicts between proposed dwellings; and
    - ii) Parking - the proposal exceeds the parking requirements of the site specific controls of the Leichhardt Development Control Plan 2000.
  - c) Part 03 – Building Design with regard to matters including:
    - i) Daylight Access - an insufficient number of dwellings will obtain the requisite three hours solar access between 9.00am and 3.00pm midwinter;
    - ii) Apartment Layout / Circulation – the spatial arrangement and circulation of various apartments will be inadequate or poor,
    - iii) Storage – it has not been demonstrated that adequate and convenient storage is provided to all units;
    - iv) Acoustic privacy – with regard to bedrooms of various units abutting noise sources;
    - v) Ceiling heights – according to supporting documentation submitted, the dwellings fronting Victoria Road will have 2.4m floor-to-ceiling heights to habitable spaces; and
    - vi) Facades and energy efficiency – with regard to the environmental performance of the residential component.
7. The proposed design of the Darling Street infill and the pedestrian bridge will have intrusive and detrimental impacts on the streetscape, Conservation Area and heritage items within the visual catchment, and the bridge will compromise the setting and integrity of the heritage item known as Rozelle Public School. Therefore, the proposal will not comply with the heritage conservation objectives of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000, including Clauses 16(2), 16(6), 16(7) and 16(8) of the Leichhardt Local Environmental Plan 2000, and the site specific controls of Part 3 of the Leichhardt Local Environmental Plan 2000 and Part D of the Leichhardt Development Control Plan 2000.

8. The concerns relating to the Darling Street infill and bridge to Victoria Road, combined with various concerns raised by the Design Review Panel regarding lack of detail with, and consistency between, plans and documentation, means that the proposal has not achieved the iconic design status for the proposed buildings which is an underlying objective of the site specific planning controls of the Leichhardt Local Environmental Plan 2000.
9. The proposal will breach the building envelope and setback controls to Victoria Road and Darling Street, and the plaza and Darling Street pedestrian link overhead clearance controls, all prescribed in the site specific controls of the Leichhardt Development Control Plan 2000, and where these breaches raise urban design concerns such as to the Darling Street infill and in the location of the pedestrian bridge to Victoria Road, these breaches are not supported.
10. The application has not incorporated a 3m dedication to Council at all levels along the Victoria Road frontage, as required by the Design Review Panel.
11. The bulk and scale of the development resulting from the floor space ratio non-compliances is excessive and will have unnecessary adverse amenity impacts on neighbouring properties.
12. The application has not demonstrated that the visual and acoustic impacts of the development would result in satisfactory levels of amenity for residents within, and near, the site, and complies with the visual and acoustic privacy provisions of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000.
13. The proposed hours of operation of the supermarket and mini major are excessive and will have adverse implications for the amenity of surrounding residents and the proposal has not demonstrated compliance with the relevant provisions of the Leichhardt Development Control Plan 2000, including with regard to working hours.
14. The proposed amendments to the public plaza, to include pergolas to each façade, would result in the added enclosure and semi-privatisation of this space, contrary to the intent of the site specific controls of the of the Leichhardt Development Control Plan 2000.
15. The application does not include the reinstatement of the Balmain Leagues Club on the site, and therefore has not demonstrated that the proposal has satisfactorily addressed this requirement, which is an objective of the site specific controls of the Leichhardt Development Control Plan 2000.
16. The application has not demonstrated that the proposal meets the energy efficiency provisions contained in the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000, including the site specific controls of these Plans.
17. The proposal is unsatisfactory on car parking and traffic grounds as:
  - a) It has not demonstrated how the traffic generation and access outcomes of the development will satisfy the objectives of the Leichhardt Local

- Environmental Plan 2000 and the planning principles of the Leichhardt Development Control Plan 2000;
- b) Proposed access and egress arrangements abutting Waterloo Street and Victoria Road, and traffic generation on secondary residential streets, are not consistent with the underlying objectives and the site specific planning controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000.
  - c) The application proposes carparking in excess of the maximum provision permitted by the site specific planning controls, with undesirable consequences for traffic movements into surrounding residential streets; and
  - d) The proposed loading/unloading, access and parking provisions for residential and non-residential have not been separated as required by the site specific planning controls of the Leichhardt Development Control Plan 2000,

and therefore, it has not been demonstrated that the proposal complies with the car parking and traffic controls of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000, including the site specific controls of these Plans.

- 18. The Social Impact Assessment lodged with the application is inadequate and does not allow an informed understanding of the social implications of the proposal and whether the development complies with Council's Social Impact Assessment Policy and guidelines, and there is a lack of detailed information and assessment on the operation and proposed functioning of various uses of the project and the potential environmental, amenity and economic impacts of these uses on the locality and whether compliance with the site specific controls of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000 are achieved.
- 19. Due to matters including streetscape and urban design, form, bulk and scale, solar access, privacy, traffic, parking and access related issues and environmental performance, it has not been demonstrated that the proposal complies with the following controls of the Leichhardt Local Environmental Plan 2000:
  - a) The site specific planning controls contained in Part 3(2);
  - b) Clause 12 – Vision of Plan;
  - c) Clause 13(1), 2(a)-(e), 2(g), 3(a)-(b) and 3(d)-(e) – General Objectives;
  - d) Clause 15(a)-(c) – Heritage Conservation; and
  - e) Clause 29 – General Provisions for the Development of Land.
- 20. The proposal has not demonstrated compliance with the Building Code of Australia and Leichhardt Development Control Plan No. 32 – Design for Equity of Access with regard to fire egress and provision of adequate access and facilities.
- 21. The proposal is considered to be an overdevelopment of the site.
- 22. The site is not suitable for the proposal as submitted due to its numerous inconsistencies with relevant Council statutory and policy controls.

23. The approval of this application would be contrary to the public interest.