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# MEMORANDUM

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TO • KAREN JONES, MANAGER ASSESSMENTS  
FROM • PETER HEAD, GENERAL MANAGER  
DATE • 23 JUNE 2010  
FILE • F07/00203  
SUBJECT • TIGERS VOLUNTARY PLANNING AGREEMENT AND  
DEVELOPMENT APPLICATION D/2009/352

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Karen

At the Ordinary Meeting on Tuesday 22 June 2010, Council considered a report on the Voluntary Planning Agreement and Development Application for the Tigers redevelopment. Council unanimously resolved as follows:

***That Council request the Joint Regional Planning Panel to impose the Conditions of Consent and Deferred Commencement Conditions as documented in this report, should the Development Application for the Tigers Development (D/2009/352) be approved.***

Attached is a copy of the Council Resolution and Report. Please forward to the Joint Regional Planning Panel for their consideration.



Peter Head  
**GENERAL MANAGER**

**Council Resolution from the Ordinary Meeting of Leichhardt  
Council held on 22 June 2010**

**ITEM 29      TIGERS      VOLUNTARY      PLANNING      AGREEMENT      AND  
DEVELOPMENT APPLICATION**

**C294/10      RESOLVED                      PORTEOUS/STAMOLIS**

That Council request the Joint Regional Planning Panel to impose the Conditions of Consent and Deferred Commencement Conditions as documented in this report, should the Development Application for the Tigers Development (D/2009/352) be approved.

**CARRIED UNANIMOUSLY**

## LEICHHARDT MUNICIPAL COUNCIL

# REPORT

**DIVISION:** CORPORATE AND INFORMATION SERVICES

**SUBJECT:** TIGERS VOLUNTARY PLANNING AGREEMENT AND DEVELOPMENT APPLICATION D/2009/352

**AUTHOR & TITLE:** DAVID MARSHALL – DIRECTOR CORPORATE AND INFORMATION SERVICES

**FILE REF:** F07/00203

**DATE:** 15 June 2010

**WORD PROCESSING REF:** G:\BP\REPORTS\FINAL\220610\TIGERS VPA REPORT.DOC

### DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

**Financial Implications:** Nil

**Policy Implications:** Nil

**Strategic Plan Objective:** Place Where We Live & Work  
A Sustainable Environment  
Sustainable Services and Assets

**Staffing Implications:** Nil

**Notifications:** Balmain Leagues Club Limited  
Rozelle Village Pty Limited  
DKO Architecture NSW PTY Limited

**Other Implications:** Nil

### 1. Purpose of Report

To seek Council's endorsement of proposed conditions of consent to secure the material public benefit contributions included in the Voluntary Planning Agreement (VPA) for the Tigers development.

### 2. Recommendation

That Council request the Joint Regional Planning Panel to impose the Conditions of Consent and Deferred Commencement Conditions as documented in this report, should the Development Application for the Tigers Development (D/2009/352) be approved.

### 3. Background

The Balmain Leagues Club Limited (Developer) sought and obtained a variation to the development standards and controls within the Leichhardt Local Environmental Plan 2000 (LEP) with respect to its land, to enable the lodgement of a Development Application for the redevelopment of the land including the demolition of existing structures and the construction of a mixed retail, commercial and residential development including a Leagues club, underground carparking and associated works.

The LEP amendment applied to the following parcels of land (Land):

- 138-152 Victoria Road, Rozelle (being Lot 1 DP 528045).
- 154-156 Victoria Road, Rozelle (being Lot 1 DP 109047).
- 697 Darling Street, Rozelle (being Lot 104 DP 733658).
- 1-7 Waterloo Street, Rozelle (being Lots 101 and 102 DP 629133, Lots 37 and 38 DP 421 and Lot 36 DP 190866).

The area of the Land is 7,336 m<sup>2</sup>. The maximum permissible floor space under the previous planning controls was approximately 11,000 m<sup>2</sup>, based on a floor space ratio (FSR) of 1.5:1. Council adopted an increase to this FSR control to 3.9:1, which allows approximately 28,600 m<sup>2</sup> of floor space, an increase of some 17,600 m<sup>2</sup>.

In conjunction with the application for an amendment to the LEP, the Developer made an offer for a VPA that would apply to the Land and the proposed development. In mid 2008 this offer was accepted by Council, exhibited, adopted and registered on the certificate of title.

A Development Application D/2009/352 for the site that is subject to the VPA was lodged in 2009. This DA will be determined by the Joint Regional Planning Panel.

#### ***General information about VPA's:***

A VPA 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 VPA 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, 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.

#### **4. Report**

The VPA 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 on page 66:

#### **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 DA, and some have not. Further detail has been requested by Council with regard to the Material Public Benefit Contributions to be included in the DA but to date it has not been provided. As such, it is proposed to request that should the Joint Regional Planning Panel approve the DA that it also impose Conditions of Consent and Deferred Commencement Conditions to secure the Material Public Benefit Contributions.

The compliance of the DA with the VPA and proposed conditions to secure the VPA obligations are set out below. The information in the shaded tables show the requirements of the VPA.

PART A – Monetary Contributions				
Column 1	Column 2	Column 3	Column 4	Column 5
Development Contribution	Intended Use/ Purpose	Date the Development Contribution is payable	Amount of Bank Guarantee	Date the Bank Guarantee must be lodged
<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>	<ul style="list-style-type: none"> <li>upgrading of roads, footpaths and traffic facilities in the vicinity of the proposed development</li> </ul>	Prior to issue of any construction certificate.	\$250,000.00	Prior to lodgement of any development application
<p>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 &amp; 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.</p>	<ul style="list-style-type: none"> <li>grants to community groups.</li> </ul>	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

**Officer Comment**

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

**Officer Comment**

The Pedestrian link to Darling Street is included in the DA (retail arcade).

**Condition of Development Consent required:**

- 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.



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

### Officer Comment

The Pedestrian bridge is included in the DA, although at this stage it is understood that owner's consent has not been obtained from the Department of Education to utilise land for part of the bridge.

During the Rezoning process the bridge was identified as being integral to the development in relation to traffic, pedestrian movement, access and safety issues.

### Condition of Development Consent required:

- o 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

### Officer Comment

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).

Further detail regarding the bus service has been requested by Council and not provided. The information provided to date does not allow Council to assess the feasibility of the service.

It is proposed to satisfy these requirements of the VPA by deferred commencement conditions.

It is noted that the VPA required the bus service to run as a minimum during the opening hours of the retail component of the development. The DA has requested 24 hour trading for the supermarket and mini major at basement level 1 and the fresh food shop at basement level 2.

Therefore if these hours were approved the bus service should theoretically operate 24 hours a day. 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.

**Deferred Commencement Condition of Development Consent required:**

- 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).
  - 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.
  - Provide a guarantee of continuity of service and details of back-up plans for when the bus is out of service.

**Condition of Development Consent required:**

- 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.
- 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

#### **Officer Comment**

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.

#### **Condition of Development Consent required:**

- A taxi pick up area shall be provided on Basement Level B3 close to the escalators.
- 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

### Officer Comment

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 and not provided.

It is proposed to satisfy these requirements of the VPA by deferred commencement conditions.

### Deferred Commencement Condition of Development Consent required:

- 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).
  - 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
  - how the service will be promoted and advertised

**Condition of Development Consent required:**

- 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

**Officer Comment**

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

**Deferred Commencement Condition of Development Consent required:**

An Aboriginal Participation Implementation Plan shall be submitted to and approved by Council (at a meeting of Council with full delegation) 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>

**Condition of Development Consent 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

**Officer Comment****Shoppers**

On the plaza level 16 spaces are provided undercover where the retail link to Darling Street meets the plaza. There are also 14 additional spaces in an enclosed room on the Plaza level, with 4 showers and 6 bike lockers. However internal spaces are not required for shoppers as they need to be high visibility.

**Employees**

10 staff spaces and lockers are provided on level B1 (the level with supermarket and mini major). There are an additional 16 spaces on Basement Level B3 along with 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 VPA.

#### Residents

There are 2 residential bike storage areas on Basement Level B6, comprising 34 spaces in total. The VPA 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 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 12 spaces may be open style but must facilitate locking of bikes to fixed racks.

#### **Deferred Commencement Condition of Development Consent required:**

- 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.
- 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

**Condition of Development Consent required:**

- Bike Facilities shall be provided in accordance with an approved Plan of Management.

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		

**Officer Comment**

Six spaces for car share are shown on Basement Level B3 (which is the level of car parking closest to the shops).

**Condition of Development Consent required:**

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

**5. Summary/Conclusions**

A DA has been lodged and is being assessed for the Tigers Development. The VPA relating to this site imposes various obligations that must be included in the DA. It is proposed to request the Joint Regional Planning Panel to impose Conditions of Consent and Deferred Commencement Conditions to secure the Material Public Benefit Contributions, should it approve the DA.