

Analysis against the principles of SEPP 1 to support requested variation to Clause 19(6) of the Leichhardt LEP 2000

Whilst the subject application is a Section 4.55(2) modification and is not technically required to prepare a SEPP 1 Objection, this analysis and justification has been provided to assist Council and the Panel in their deliberations to support a variation to Clause 19(6) of the Leichhardt LEP 2000, which states:

Diverse housing Consent must not be granted for development that will provide 4 or more dwellings, unless it provides a mix of dwelling types in accordance with the following Table, to the nearest whole number of dwellings—

- *Bedsitter or one bedroom dwelling: Minimum 25%*
- *Three or more bedroom dwelling: Maximum 30%*

Extent of the variation

The subject modification MOD/2022/0447, which is seeking modifications to Development Consent D/2018/219 and its mixed use development.

“Changes include modifications to: the commercial club and retail podium; approved building envelopes and facade; public domain landscaped areas; residential unit design and mix resulting in a reduction of units; private and communal open space areas; basement and sub-structure; and incorporation of construction staging”

As part of the modification application RFI response, the mix of units has been changed, which will result in a variation to this Clause of:

- 12.75% of bedsit/1-bedroom (2 x bedsits and 17 x 1-bedroom units) including live work (19/149) where a minimum of 25% are required; and
- 31.5% of 3-bedroom units including live work (47/149), where a maximum of 30% are required.

Justification for the variation

As the subject application is for a modification, not a new development consent, no formal SEPP 1 Objection is required to be submitted. However, the remainder of this justification will be structured in a manner similar to a SEPP 1 objection / Clause 4.6 Variation Request to best demonstrate the acceptability of the variation. In particular, this submission demonstrates that:

- The objective of the development standard is achieved notwithstanding noncompliance with the development standard (Wehbe Test #1).
- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.

This report is also accompanied by a supply and demand analysis undertaken for Rozelle, Balmain and other Inner West suburbs including Ashfield and Marrickville.

Consistency with the Objectives of the standard

The Objectives of the standard is within Clause 17 of the LLEP2000 – specifically (d) and (e):

(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.

If we are to evaluate the proposed development against these Objectives, it is clear that the proposed development delivers a mix of dwelling types in size, type, form, layout and location, despite the variation to the numerical control. The number of 3-bedroom dwellings proposed only just exceeds the maximum by less than 2%. Whilst the development provides fewer 1-bedroom dwellings than required by the control, it still delivers a mix of dwelling types – particularly given that it also delivers 3 ‘live/work’ or ‘soho’ style housing that are in strong demand as a consequence of the move to hybrid working models from Covid. The modifications made to the scheme have also increased the compliance of the proposal with the 1-bedroom and bedsits control to 12.75%.

Further, Covid has also driven a significant change in the types of dwellings people choose to live in. In particular, many singles or young couples are now choosing to reside in 2-bedroom dwellings so that the second bedroom can be used as a home office space. Prior to 2020, many of these demographics would have instead chosen a 1-bedroom unit, as they were required to work most if not all at a central workplace. Given this control pre-dated Covid, it is reasonable to argue that the increased 2-bedroom units proposed as part of the modification better reflect the mix of dwelling types needed in an area such as Rozelle as a consequence of the pandemic. This approach to 2-bedroom dwellings also particularly aligns with Objective 17(e).

This development consent was also accompanied by a significant Planning Agreement (refer to **Appendix 8**), which also included over \$1 million dollars provided for new social and affordable housing to be delivered in the LGA, which is not provided by most other developments. Given the significant monetary contribution that will go to critical social and affordable housing in the LGA, the reduced number of 1-bedroom dwellings to be provided on site should still be considered as meeting the objective to provide a diverse mix of dwellings.

A further Yield Mix Analysis prepared by Hadron Group (refer to **Appendix 5a**) provides a detailed analysis of the supply and demand for 1-bedroom units in Rozelle and other suburbs in Inner West Council LGA including Balmain, Leichhardt, Ashfield, and Marrickville. Findings from the analysis showed:

- The share of studios/bedsits and 1-bedroom dwellings has increased slightly in the former Leichhardt LGA suburbs of Rozelle, Lilyfield, Balmain and Leichhardt since the introduction of the diversity clause. However, there has also been an increase in Ashfield and Marrickville suburbs, indicating that the diversity Clause has had limited effect in the delivery of 1-bedroom units compared to areas not subject to the same Clause;

- The share of flats or apartments in total housing supply in Rozelle was broadly flat between 2006 and 2021, whereas the other former Leichhardt LGA suburbs and Ashfield and Marrickville suburbs saw increases ranging from 6% in Balmain to 12% in Ashfield.
- There has been little change in the overall levels of under and over-occupancy of dwellings in Rozelle, the other selected former Leichhardt LGA suburbs or the suburbs of Marrickville and Ashfield since the introduction of the housing diversity clause.
- There has however been a slight increase in the share of under-occupation by lone person households in Rozelle, Lilyfield and Balmain suburbs which may suggest a role for two and three-bedroom apartments to accommodate downsizers given the ageing population.

Overall, the analysis suggests that Rozelle is not undersupplied with 1-bedroom or studio dwellings compared to the surrounding suburbs and that projected growth in household types supports delivery of a lower share of these bedroom mixes than required under the housing diversity clause over the period 2021 to 2031. The analysis also suggests there is a potential market for households looking to downsize in Rozelle and other former Leichhardt LGA suburbs and that the Rozelle Village development price-points for 1-bedroom units represent a significant premium on the current market medians for Rozelle suburb.

Unreasonable or unnecessary

In addition to the proposal's consistency with the relevant housing diversity objectives, the site is subject to specific site development objectives and community infrastructure more broad reaching and complex than almost any other development in the LGA. The site is also obliged to deliver:

- A new Club for West Tigers, which has been a commitment to the site for over 15 years;
- A new publicly-accessible plaza and associated food and drink premises and local retail;
- A new local supermarket for the precinct;
- Over 1,000m² of local commercial floor space;
- 3 live-work units; and
- \$1 million contribution to an affordable housing fund and contribution of 200m² of community floorspace within the development.

Whilst not strictly a feasibility matter, the delays to delivery of this precinct including from the previous TfNSW leasehold have meant the development is seeking to progress in very complex macro-economic circumstances including significant inflation for both construction and energy, and difficult financing circumstances. The mix of dwellings proposed is important in enabling the successful delivery of this project to meet the Object of the Act "to promote the orderly and economic use and development of land" given the difficult economic circumstances.

Given that the development application and subject modification clearly demonstrate consistency with the site-specific broad-ranging land use, character and built form objectives and benefits to the community that other sites are not subject to, some flexibility should be applied to Clause 19(6) of the Leichhardt LEP 2000, which is not a site specific control for the site.

Strict compliance with the control is unreasonable or unnecessary for the following reasons:

- The VPA attached to the development consent requires a significant contribution to affordable housing of \$1 million – which is more significant than what would otherwise apply under Council’s policy, and will deliver an improved mix of dwellings in the LGA, despite the reduced number of 1-bedroom dwellings on the subject site;
- The development (as modified) provides a more suitable dwelling mix for the demographics of the area, which includes many professionals working a hybrid model post Covid who now work from home multiple days a week and need a separate work space;
- The development still provides an appropriate dwelling mix, including live/work dwellings, which are not required in the development, and the modification has increased 1-bedroom units up to 17.

Sufficient Environmental Planning Grounds

The subject site has an extensive planning history of nearly 20 years and a number of particular planning and environmental circumstances that provide grounds to support a variation to the development standard:

- The site is still covered by the planning controls outlined in LLEP2000 Part 3, Schedule 1 (Balmain Leagues Club Precinct site). These site-specific controls are detailed and complex, including particular FSR allocations to a range of uses more complex than a traditional residential flat building or shop-top housing development. The development is consistent with these site-specific controls and proposes no change where a variation was previously permitted under the original consent. The standard being sought to be varied does not sit within the site-specific controls, but rather is a control applied across the former LEP areas. Accordingly, consistency with the site-specific controls should be afforded particular consideration given the proposed development meets the objectives of the standard and site-specific controls.
- The complexity of the site-specific controls also ensures an overall development that has significant diversity across the whole site including public domain (plaza), a club, retail, office, live/work and residential dwellings. The VPA attached with the site also ensures \$1 million will go towards new social and affordable housing in the LGA, also contributing to a diverse mix of dwellings.
- The analysis prepared by Hadron Group also provides a detailed and complex analysis that concludes that Rozelle is not undersupplied with 1-bedroom or studio dwellings compared to surrounding suburbs and that projected growth in household types supports delivery of a lower share of these bedroom mixes than required under the housing diversity clause over the period 2021 to 2031. The analysis also

suggests there is a potential market for households looking to downsize in Rozelle and other former Leichhardt LGA suburbs and that the Rozelle Village development price-points for 1-bedroom units represent a significant premium on the current market medians for Rozelle.

For the reasons above, we consider the proposed variation to Clause 19(6) of LLEP2000 to be supportable under the circumstances of the development.