

PLANNING PROPOSAL

Draft Amendment to Leichhardt LEP 2000

118-124 Terry Street Rozelle

Leichhardt Municipal Council

April 2012

Executive Summary

The potential for land use change on the site began to be discussed in 2006 when the owners of the land at that time, Multiplex, prepared a masterplan for a large scale mixed use retail centre. In 2007, they also received Land and Environment Court approval for a bulky goods retail development which remains valid.

In response to community concerns about the Multiplex proposals, in 2009 Council commissioned Allen Jack + Cottier (AJ+C) to consider future redevelopment scenarios for the land. The various options were widely discussed with the local community. The outcome was support for the rezoning of the land to allow predominantly residential use as this option had significant benefits over non-residential land use and in particular less traffic generation. The main development parameters were a Floor Space Ratio (FSR) of 1.5:1 and buildings up to 6 storeys.

As traffic was a significant issue for the community, Council commissioned Arup to undertake an investigation of the potential impacts of both the redevelopment of Balmain Leagues Club (Tigers) and the Multiplex proposal. This process resulted in the allocation of a traffic 'budget' for the site.

The proponent of this Planning Proposal, Anka Property Group (a Sydney based, family owned company), purchased the site in October 2009. Shortly after, as a result of the above investigations, Council resolved to move forward with the rezoning of the land and invited Anka to submit a Master Plan and a Planning Proposal.

Anka immediately began to engage with Council and the local community on moving forward with the change of land use. The AJ+C work was revisited and generally found to be well considered. A Master Plan was prepared and submitted to Council in April 2010. After further discussions with Council a formal Planning Proposal was submitted in September 2010.

On 19 April 2011, Council ultimately resolved to send the Planning Proposal to the Department of Planning and Infrastructure (DP&I) on the basis of an FSR of 1.5:1 and buildings up to 6 storeys. In conjunction, a Voluntary Planning Agreement (VPA) including a \$4.16M cash contribution, \$270,000 toward affordable housing and construction and dedication of a new road was agreed.

DP&I granted 'Gateway' approval of the Planning Proposal on 16 September 2011. Since this time, Anka has been working with Council to update the Planning Proposal to make it ready for public exhibition. This has included the preparation of further environmental reports and site specific provisions for inclusion into Council's Development Control Plan (DCP).

Following the provision of further information on traffic and parking, Council resolved on 22 November 2011, to support a maximum of 250 car spaces on the subject site. The draft DCP provisions accord with this resolution.

The scheme is consistent with the overall distribution of building bulk indicated in the Master Plan drawing with which Council are familiar. The impact on surrounding properties is unchanged.

The Planning Proposal will result in a significant improvement to both the environment of the site and the surrounding area. The site presently comprises 90% hard surfaces with very large industrial buildings that are at odds with the predominantly residential nature of the northern part of this precinct. The proposal provides for modestly scaled building, lower to the existing street frontages and stepping up towards the central area where the additional height will have minimal visual and amenity impacts. The buildings will be set in a generous amount of landscaping. Public domain works including the provision of a new road which will establish the potential to link Margaret and Merton Streets in the future, a safe environment for pedestrians in the vicinity of the new neighbourhood shopping centre and the upgrade of the Terry Street frontage, will further enhance the quality of this area. As well as physical improvements, the augmentation of the existing neighbourhood centre, with convenience shopping and food outlet, will reduce dependency on private vehicles and raise the quality of life for existing residents and workers in the vicinity. The centre is limited in size so as to minimise impact on the existing shopping areas in Darling Street.

The land is contaminated and its remediation will create a safer environment for local residents. The proposal will also result in a positive traffic outcome as the existing industrial zoning permits uses which could generate greater levels of traffic than will result from the proposal.

One possible adverse impact is the loss of industrial land. However, detailed investigations by Council and the proponent conclude that the impact will be negligible and the retention of employment generating uses on the site mean that there will not be a significant reduction in job opportunities on the site.

The Planning Proposal is consistent with the desire of the local community to change the use of the land to a more compatible land use that has been expressed since the original community consultation by Council in 2009. It will improve the quality of life for this community and will have minimal potential for adverse impact. It is a proposal that is highly suited to its context, being predominantly surrounded by residential uses with excellent access to goods, services and transport infrastructure.

The Planning Proposal and associated documentation now conform with Council's resolution of 19 April 2011 as detailed in Section 4.1 of this report.

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Appendix P	Zoning Map, FSR Map, Extract of LEP 2000 Zoning Table and Clauses, Definitions Used in Planning Proposal

This Planning Proposal has been prepared in accordance with the Department of Planning and Infrastructure “Guidelines for Preparing Planning Proposals”. It considers the planning implications of a draft amendment to Leichhardt LEP 2000 to rezone the subject land at 118-124 Terry Street Rozelle from the Industrial zone to the Residential zone and to permit some non-residential uses and also the implications of proposed amendments to Leichhardt Development Control Plan (DCP).

The proposed rezoning has received ‘gateway’ approval from the Department of Planning and Infrastructure (DP&I) to allow public exhibition (see Appendix A). This report forms part of the material for that public exhibition and is in accordance with Council’s resolution of 19 April 2011 (see Appendix B).

Local Government Area: Leichhardt

Address of land: 118-124 Terry Street Rozelle being Lot 3 in DP119 Section D, Lot 2 in DP 234045 and Lot 1 in DP 540118.

The site has an area of 14,180sqm and is located a short distance from Victoria Road which cuts across the Balmain Peninsular (see Figure 1). It is within a block bound by Victoria Road, Terry Street and Wellington Street that is zoned Industrial and is used for a variety of industrial and commercial purposes (see Figure 2) as well as some pockets of residential dwellings.

The site was formerly owned by Carrier Air Conditioning as used for manufacturing, warehousing and administration. More recently the land was owned by Multiplex who gained an approval through the Land and Environment Court for a bulky goods and gymnasium development and sought to redevelop the site for a large scale retail and residential development. Council rejected various redevelopment proposals in this regard. The history of the site is discussed in Section 4.

The site is presently unused and some of the buildings are in poor condition and require demolition. A detailed history of the site and locality are provided in the Heritage Impact Assessment at Appendix E.



Figure 1 - Context



Figure 2 – The site

As noted above, the site is located within a block that zoned Industrial under Leichhardt Local Environmental Plan 2000. Surrounding this block are primarily residential uses. To the west and north across Terry Street are the large Balmain Shores and Balmain Cove residential developments. At the corner of Margaret Street and Terry Street are some small scale retail/commercial uses. To the east across Wellington Street are dwellings and at the corner of Wellington and Merton Streets, Rozelle Public School (see Figure 2 above).

Further details of the surrounding area are provided in the Urban Design Study at Appendix D.

4.1 Background

Multiplex

The recent planning history of the site commence with various proposals by Multiplex, the previous owners of the site.

The two submissions by Multiplex may be summarised as follows:

a) May 2007 - Gained approval through LEC for bulky goods and gymnasium. This includes 3130sqm for bulky goods retail, 1652sqm of gym and 172 car spaces. This consent remains valid and due to minimal remediation costs is a viable alternative to residential development.

b) 2006/2007 – Prepared draft Masterplans for mixed use development of the site. The site was extended to include the Kennards site to the south over which Multiplex had an option to purchase. The last draft Masterplan included:

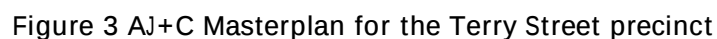
- 10,703sqm of retail floor space
- 4,872sqm of commercial floor space (including gym)
- 27,000sqm of residential floor space.

At this time Council commissioned ARUP to undertake a traffic assessment and its conclusions were based on the above scenario. The community and Council strongly rejected the Multiplex proposals.

Council

Following the rejection of the Multiplex scheme, Council undertook its own review of the Terry St precinct and commissioned Allen Jack and Cottier to undertake an urban design review with other consultants providing economic viability and sustainability report. This process involved significant community consultation, and resulted in general agreement about the land

Council's economic consultants advised that based on remediation costs of around \$5M, an FSR of 1.5:1 was required to make redevelopment viable. Whilst the AJ+C analysis indicated that 3 to 4 storey perimeter buildings with up to 8 storeys internally were appropriate, as a result of community feedback, Council resolved to allow a maximum of 6-storey buildings and adopted the plan at Figure 3.



Anka became the owner of the land in October 2009. They immediately engaged with Council, and created a project team to commence a review of the previous work. Council, and in particular the Mayor, encouraged Anka to involve the community in the process. Since purchase Anka have:

- undertaken significant additional contamination testing and received a preliminary quote for the cost of remediation
- engaged Urbis to undertake a Market Research report to determine the most
- appropriate land uses for the site and also to prepare Economic and Social Impact Assessments
- engaged 2 urban designers to review the AJ+C work with Turner Architects being involved with working up a new Master Plan
- engaged Ingham Planning to undertake a planning review and to manage the planning process
- engaged Colston, Budd, Hunt and Kafes Pty Ltd to consider traffic issues
- engaged Cundall & Partners to provide advice about sustainability issues
- met with Council on numerous occasions
- met with members of the local community on 2 occasions as a group and also individually
- presented the proposal to a meeting of the Rozelle/Iron Cove Precinct Committee and approximately 80 local residents and
- presented the proposal to members of the Rozelle/Balmain Chamber of Commerce.

The draft Planning Proposal was presented to Council on 7 December 2010. Council considered the matter at its meeting on 7 December 2010, at which time it resolved to defer consideration of the draft Planning Proposal to allow for a Councillor Briefing and a Public Meeting. The Public Meeting was held on 23 February 2011. The draft Planning Proposal was again listed for consideration by Council at the meeting on 22 March 2011, at which Council resolved (Resolution no C85/11), amongst other things:

“That:

(a) That Council defer the proposal for a redesign subject to the following being addressed:

- *parking rates as they apply to the site*
- *the size of the proposed supermarket and the total amount of*
- *retail floor space*
- *FSR 1.5:1*
- *Street front buildings to be no more than 3 storeys and internal buildings to be no more than 6 storeys*
- *Minimise overshadowing with submission of detailed shadow diagrams in relation to Crystal Street*
- *Voluntary Planning Agreement to be renegotiated with the applicant to consider issues of affordable housing, the development application, and take into account the reduced FSR.*
- *Minimise bulk and scale*
- *That an amount of open space no less than currently proposed be retained (that is, the building footprint should not increase)*
- *Leading Environmental Sustainable Design principles be incorporated*
- *Review the need for the new Street but specify pedestrian and cycle access through the site to Merton Street and Margaret Street*
- *More detailed information to be provided in regards to retail tenancy*
- *Unit size of commercial properties not to exceed a maximum of 300 square metres*
- *The issue of privacy in relation to the private open space of adjoining properties be addressed.*

The proponent responded to the above with revisions to the proposal and the scheme was ultimately supported by Council (Resolution no 128/11) at the meeting of 19 April 2011 where it resolved to acknowledge the changes made, endorse the Planning Proposal, require a legally binding agreement in relation to the Voluntary Planning Agreement (VPA) and to require the preparation of a consolidated set of documents for Council endorsement prior to the public exhibition. The Council's resolution at this 19 April meeting is important because it endorsed the accompanying Report included key elements that had been agreed with ANKA including building setbacks.

The manner in which the current version of the Planning Proposal addresses these matters is detailed below (see full copy of resolution at Appendix B).

Council resolution of 19 April 2011	Status
That: (a) Council note the key changes made to the Planning proposal in response to its previous resolution, namely:	No action required. Council noted the changes that were made as a result of the resolution of 22

Council resolution of 19 April 2011	Status
Additional information submitted in respect of traffic and car parking	March 2011.
Confirmation that the size of the proposed supermarket and other retail tenancies will not exceed 300m²	Will be controlled by FSR restrictions on shops in LEP
A reduction in the FSR from 1.7:1 to 1.5:1	As per Section 4 and Appendix A of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
Street front buildings of no more than 3 storeys and internal buildings of no more than 6 storeys	As per Section 4 and Appendix A of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
Reduced overshadowing of the Crystal Street properties	As per Section 4 and Appendix A of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
Revised Voluntary Planning Agreement taking into account the reduced FSR and addressing the issues of affordable housing	Confirmed
Reduced bulk and scale	As per Section 4 and Appendix A of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
An amount of open space greater than currently proposed	As per Section 4 and Appendix A of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
Leading Environmental Sustainable Design principles in excess of BASIX	Confirmed. Greenstar 4* Australian Excellence rating. As per Section 4 of approved Report to 19 th April 2011 Council meeting and confirmed in DCP
More detailed information in relation to the retail tenancies	The proponents of the Planning Proposal confirmed in advance of the 19 th April 2011 that the maximum size of any retail tenancy will be 300m ² . A range of land uses such as a child care centre, small supermarket (max of 300sqm), a café or cafes, a bakery, newsagent, take-away food premises, beauty salon/day

Council resolution of 19 April 2011	Status
	spa, and laundromat would be located in the non residential areas in the vicinity of the intersection of the New Street and Terry Street. These details were confirmed in the 19th April 2011 Report to Council. .
• Addressing the issue of privacy in relation to the private open space of adjoining properties	Addressed in DCP plans
• The revised Planning proposal also includes an assessment of the need for the New Street.	Confirmed with Council engineers
(b) Council endorse the planning proposal (Refer Appendix A of the report) subject to: • A notation being placed on the plan that the new street will not be the subject of compulsory acquisition and will remain as a cul de sac until the adjoining land is developed.	The draft DCP plans include a notation to this effect.
• Investigation of the parking rates as they apply to the site and commence the process to amend Leichhardt Local Environmental Plan 2000, which will: (i) rezone the site known as Lot 3 in DP 119, Lot 2 in DP 234045 and Lot 1 in DP 540118, 118-124 Terry Street, Rozelle from industrial to residential; (ii) establish a Maximum Floor Space Ratio of 1.5:1 (iii) provide site-specific height controls for the subject site; (iii) provide for small-scale non-residential uses on specific properties appropriately identified that would otherwise not be permissible in the residential zone.	The matter of parking was addressed in the report to Council on 22 November 2011 where Council resolved to permit 250 car spaces on the site. This requirement is reflected in the draft DCP provisions. The proposal includes rezoning the land from Industrial to Residential. The proposed maximum FSR is 1.5:1. The draft DCP provisions include site specific height controls. The Planning Proposal includes provisions which will permit shops, commercial premises and refreshment rooms (up to

Council resolution of 19 April 2011	Status
	1300sqm in total with any one tenancy limited to 300sqm) and light industrial uses (limited to 450sqm) on the site To be subject of FSR control
(c) That prior to the planning proposal being forwarded to the Minister for Planning to commence the Gateway process, Anka enter into a legal agreement with Council that binds Anka to proceed with the VPA should the planning proposal proceed to formal exhibition. After this agreement is entered into, Council notify the Director-General of the Department of Planning of the planning proposal in accordance with section 56 of the Environmental Planning and Assessment Act and enclose a copy of Council's Draft 2010 Employment Lands Study	Anka has signed the VPA agreed to by Council. The VPA will be publicly exhibited with the Planning Proposal.
(d) In relation to the ongoing assessment of the Planning Proposal the applicant be requested to submit a consolidated set of the following documents for endorsement by Council prior to the commencement of the Statutory public exhibition process:	All these reports have been prepared and have been peer reviewed by Council staff and/or Council's external consultants.
(i) Planning Justification Report: The report is to include a full justification for the rezoning and analysis of planning and landuse choices and issues, particularly as they depart from Council's previous requirements.	Refer to Planning Justification Report (see Appendix C) ;
(ii) Environmental Performance Report: This report should demonstrate how the development will incorporate ecologically sustainable development principles in the design, construction and ongoing phases of the development	Refer to Environmental Performance Report (see Appendix H;
(iii) Parking, Traffic, Transport and Accessibility Study: This study to be prepared by a suitably qualified transport consultant, is to provide advice regarding the proposed parking rates, car share, cycle paths, cycle storage facilities, road layout for the site, integration with the existing road network and analysis of any local traffic impacts resulting from redevelopment. In addition, the study should include an analysis of opportunities to integrate the redevelopment of	Refer to Access, Transport and Traffic Report (see Appendix G);

Council resolution of 19 April 2011	Status
the site with the local public transport networks, new and existing cycle paths and pedestrian networks. The study should also address the issue of parking rates for peer review on behalf of Council by ARUP. Any change to the parking rates must be endorsed by Council prior to the Planning Proposals Statutory exhibition period.	
(iv) Heritage Impact Study: This study would be prepared by a suitably qualified heritage consultant and advise of any heritage impacts on nearby heritage items and conservation areas on the site.	Refer to Heritage Impact Study (see Appendix F);
(v) Stormwater Management Plan and Water Sensitive Urban Design Study: To be prepared by a suitably qualified engineer to analysis the stormwater management of the proposal and any potential flooding issues. This plan would also examine opportunities for water sensitive urban design.	Refer to Stormwater Management Plan and Water Sensitive Urban Design Study (see Appendix I);
(vi) Contamination Study: Prepared by a suitably qualified environmental consultant in accordance with the requirements of the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites to determine if the site is suitable for the proposed use in accordance with SEPP55, or alternatively advise if remediation works are necessary to make the site suitable for the proposed use by way of a Remediation Action Plan	The remediation of the site will be in accordance with the provisions of State Environmental Planning Policy (SEPP) 55 – remediation of Land. The Preliminary Site Contamination Assessment Report has been prepared and will be placed on public exhibition with the Planning Proposal. Refer to Remediation Action Plan (see Appendix J);
(vii) Retail, Economic Impact Study: Prepared by a suitably qualified economic consultant, to confirm the role and function of the proposed non residential aspects of the proposed development.	Refer to Economic Impact Assessment (see Appendix K);
(viii) Active Transport and Open Space Study: Prepared by a suitably qualified consultant to provide advice on open space provision and linkages between the site and surrounding recreation, open space and community destinations.	Refer to Active Transport and Open Space Study (see Appendix L);
(ix) Social Impact Assessment: Prepared by a suitably qualified consultant in accordance with Council's Social Impact Assessment Policy.	Refer to Social Impact Assessment (see Appendix M);

Council resolution of 19 April 2011	Status
(x) Community Consultation Strategy: The statutory Local Environmental Plan preparation process incorporates a minimum public exhibition period of twenty-eight (28) days to allow community input into a draft Local Environmental Plan. However, given the history of the site, it is recommended that a comprehensive community consultation program that goes beyond the minimum statutory requirements be prepared with specific reference to the bulk and scale and the issues raised by Wellington Street residents. This will include a 56 day exhibition period.	Refer to Community Consultation Strategy (see Appendix N);
(xi) Development Control Plan: The Development Control Plan is to be based on an Urban Design Study. The Urban Design Study should draw on the results of the Allen Jack+Cottier study and the revised concept plans referred to in this report. The study should examine appropriate built form for the site, including proposed building envelopes, open space provision, heights and floor space ratio. The study should also address existing and proposed overshadowing, solar access, acoustic privacy, visual privacy, view loss, include provision for deep rooted street trees within the Crystal Street public domain, and environmental and residential amenity of the site and adjoining properties. The Development Control Plan is to be drafted and endorsed by Council prior to the Planning Proposals Statutory exhibition period. The Development Control Plan will be placed on exhibition concurrently with the Planning Proposal during the Statutory exhibition period.	Refer to Draft Amendments to Leichhardt Development Control Plan (DCP) (see Appendix E);
(xii) Voluntary Planning Agreement: A Voluntary Planning Agreement is to be drafted and endorsed by Council prior to the Planning Proposals Statutory exhibition period. The Voluntary Planning Agreement will be placed on exhibition concurrently with the Planning Proposal during the Statutory exhibition period.	Refer to Voluntary Planning Agreement (VPA) (see Appendix O).

The VPA was the subject of a separate resolution (Resolution no129/11) as follows:

- 2.1 That Council provide in principle support for the provision of the VPA as offered by Anka Constructions Pty Ltd in conjunction with the Planning Proposal seeking to amend Leichhardt Local Environmental Plan 2000 for the property at 118-124 Terry Street Rozelle.
- 2.2 Prior to the planning proposal being forwarded to the Minister to commence the gateway process, the Voluntary Planning Agreement offer be amended to;
 - a) allocate the existing monetary contribution above the \$94 cap (approximately \$580,000) for the affordable housing fund.
 - b) include an additional monetary contribution of \$270,000 to Council as a foundation for an affordable housing fund.
 - c) Anka change clause 12.3 of the Voluntary Planning Agreement offer such that the rate for any additional FSR above 1.5:1 is \$600 per square metre.
 - d) The Voluntary Planning Agreement be modified to incorporate any consent processes, including any process that might replace Part 3A.
 - e) Change Clause 10 of the Voluntary Planning Agreement offer such that Anka must submit 1 DA for the demolition and built form.
- 2.3 That subject to the outcome of the gateway application to the Department of Planning and resolution of any planning issues a formal VPA be prepared and reported back to Council so that it can be exhibited in conjunction with any proposed change to the LEP.

The above changes have been made and the \$600/sqm rate referred to in (c) above was increased to \$3000/m².

Following the above, Council sought a 'gateway' determination of the planning proposal from DP&I and on 16 September 2011, DP&I issued the determination shown at Appendix A, allowing the public exhibition of the planning proposal and requiring that the process be finalised within 12 months.

4.2 Summary of the Proposal

4.2.1 Draft LEP

As part of the Gateway Determination and accompanying letter (see Appendix B), DP&I advised the following should form part of the proposed amendment to Leichhardt LEP 2000:

- a change to the zoning map to rezone the site from Industrial to Residential;
- a site specific 'enabling' clause to allow certain non-residential uses including shops, commercial premises, light industry and refreshment rooms and to provide building height and floor space ratio (FSR) controls.

The existing LEP provisions do not specifically take into account large scale, mixed used developments such as is proposed and for this reason the LEP includes a schedule (schedule 1) that deals with the development of specific sites. It is proposed to adopt a similar approach with the subject site. This 'enabling' clause deal with the matters of land use, FSR, provide other matters for consideration and indicate which of the other LEP provisions should not apply as they are contrary to the overall objective of facilitating the Planning Proposal.

Land Use

As noted above the enabling clause will permit shops, commercial premises, light industry and refreshment rooms on the site in addition to those uses permitted in the Residential zone. It will also include a definition for 'light industry' which is presently not defined in LEP 2000.

FSR

The matters of FSR and building height have been discussed with Council and it has been agreed that the enabling clause can include a reference to the maximum permitted total FSR on the site being 1.5:1, with the maximum FSR for the shops/refreshment room/commercial premises being 0.09:1 (ie around 1300sqm) and the GFA of any individual tenancy of these uses limited to 23% of 0.09:1 (ie around 300sqm). The maximum FSR of light industrial use is to be 0.03:1 (ie around 450sqm).

Height

In relation to building height, as LEP 2000 does not presently contain height controls it is proposed to limit the maximum height of development by way

of amendments to the DCP. A copy of the draft Height of Buildings map for the DCP is shown at Figure 4. This map is generally consistent with the Masterplan drawing submitted with the Planning Proposal endorsed by Council for the Gateway process

The Master Plan drawing in Figure 4 was prepared to replicate the plans prepared by AJ+C and served to provide an indication of the distribution of building bulk on the site and how the FSR of 1.5:1 was achievable. Development controls relating to building height and other considerations are required. Apart from FSR (which is included in the draft LEP amendments), these controls will be provided through the provisions of the draft amendments to Council's DCP (see Appendix E).

The draft DCP controls are generally consistent with the Master Plan drawings presented to Council on 19th April 2011 and the height controls must be considered having regard to the other controls including setbacks.

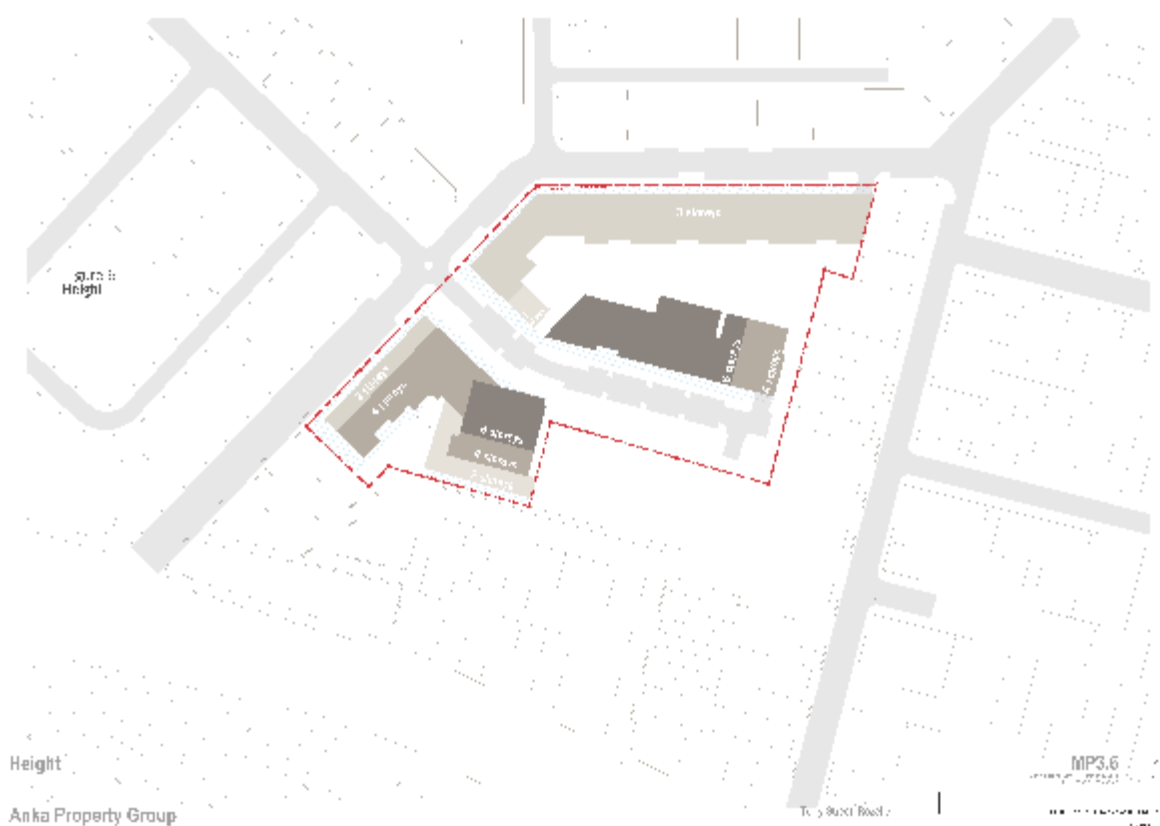


Figure 4 – Building heights

The Planning Proposal is inconsistent with 3 clauses of the LEP 2000. This draft amendment will provide new provisions which will control development in these instances. In summary these are :

Clause 19(1)&(2) – this clause provides an FSR control for the identified ‘density areas’. The site is within the density area with an FSR limit of 0.7:1. The proposed FSR is 1.5:1 and therefore conflicts with the requirements of this clause, but complies with Council’s resolution.

Clause 19(3) – this clause provides landscaped area requirements for development. However it is noted that development carried out in accordance with Clause 23(1) is excluded. However Clause 23(1) relates to commercial and mixed use development, however the reference to mixed use development relates only to the Business zone. The site is proposed to be zoned Residential and therefore technically the provisions of Clause 19(3) apply. However, given that the Planning Proposal facilitates mixed use development within an existing industrial context, the landscaped area provisions of Clause 19(3) should not apply to the subject site. It is also noted that in its previous considerations (refer to the Council resolution of 22 March 2011) Council has determined that the identified open space on the site should not be less than 2,690sqm. An area of 2,690m² is provided for in the proposed amendments to the Leichhardt DCP (see discussion below).

Clause 23(1) – as noted above this clause relates to commercial and mixed use development. Pursuant to subclause (1), an FSR of 1:1 would be permitted for the non-residential development on the site. This conflicts with the Planning Proposal, which as noted above limits non-residential use to a total of 0.12:1.

In view of the above the ‘enabling’ clause for additional uses will also exclude application of these clauses to the subject site.

4.2.2 Draft DCP

Although not technically part of the Planning Proposal (which only relates changes to the LEP), the amendments to the Leichhardt DCP will provide for supplementary controls and it is important that this forms part of the overall ‘package’ of proposed changes to the planning controls that apply to the site.

Based on the Gateway Determination, all other matters apart from those contained in the draft LEP detailed above, are addressed in amendments to the Leichhardt DCP.

The existing DCP is a very detailed and thorough document and many of the issues arising for the subject site will be suitably considered having regard to these existing provisions. However the type of development proposed by the Planning Proposal ie a large scale mixed use development, is not specifically addressed in the existing DCP. Therefore in order to deal with these issues, it is proposed to amend the DCP to include a new site specific Part D2. This approach already forms part of the DCP as part D1 deals specifically with the Balmain Leagues Club Site.

The draft amendment to the DCP is provided at Appendix E. As noted above Part D2 will only deal with issues that are not adequately covered or are absent from the existing DCP provisions. The matters included are noted and commented upon:

Desired Future Character – at present the site is located within Rozelle Commercial Neighbourhood identified in Part A10.5 of the DCP. However the rezoning of the land to Residential will result in a new and different character and so a new description of desired future character is provided in recognition of this change. Future development of the site should be consistent with this character.

Public Domain – the proposal includes the provision of a public road within the site that in the longer term is intended to link Merton and Margaret Streets. The road is to be provided in accordance with the VPA that has already been negotiated with Council. The proposed DCP provisions are consistent with these requirements.

Built Form and Design – as the proposal is different in use and form from development that is contemplated by the existing DCP provisions, it is appropriate that new provisions are include to guide these aspects of the proposal. These provisions will result in building form which is generally the same as that previously endorsed by Council in their support for the Planning Proposal to proceed. This issue is discussed in further detail in the Planning Justification Report at Appendix C.

Residential Amenity – whilst most of the existing DCP provisions will be relevant to the proposal, there are some specific areas either not presently addressed or not specific to the proposal that need to be the subject of new provisions. One of these relates to landscaped area. As the proposal will not be subject to the landscaped area requirements of LEP 2000 (as it involves mixed use development) and as Council has previously resolved to require a specific minimum area in this regard, it is proposed to provide specific controls to the site in relation to this matter.

There are also specific controls relating to visual privacy which is also an issue that was raised in a previous Council resolution.

These issues are discussed in further detail in the Planning Justification Report at Appendix C.

Parking – Council has previously resolved to support a maximum of 250 car spaces on the site. The specific DCP provisions reflect this resolution. This issue is discussed in further detail in the Planning Justification Report at Appendix C and the Traffic Report at Appendix G.

Environmental Performance – whilst the existing DCP requirements are of some relevance they are generally superseded by the BASIX requirements. The applicant has always committed to achieving a 'better than BASIX' outcome.

Council have previously resolved that the Environmental Performance Report to be submitted should discuss the principles of ESD 'with a view to achieving an minimum 5 star rating' This report discusses this issue in detail (see Appendix H) and concludes that the proposal will exceed the assumed Council expectations by achieving the equivalent of a 7.5 star NatHERS rating. The proposal provides for the achievement of a 4 star Greenstar rating which is current best practice and defined as Australian Excellence. This a much broader sustainability standard than NatHERS and is much more difficult to achieve. In the event that the reference to 5 stars was made in relation to the Lilyfield Housing NSW project, as discussed in Appendix H, the proposed 4 star Greenstar rating achieves a superior outcome to the Lilyfield project as that was assessed under the 'pilot' version of the rating tool and provided no car parking.

Therefore the applicant's offer to achieve a 4 star Greenstar rating exceeds Council's expectations and not only benefits future residents but the wider community. Accordingly this standard has been adopted in the draft DCP provisions.

4.2.3 Voluntary Planning Agreement (VPA)

A VPA has been negotiated with Council and signed by the applicant. The VPA provides for includes a cash amount of \$4,160,000, plus and additional \$270,000 for affordable housing and construction and dedication of a new public road. The VPA is intended to be publicly exhibited with the Planning Proposal.

4.2.4 Development Application (DA)

Preparation of a DA has commenced however there remain a number of detailed issues to resolve and as such it is not ready for consideration as part of the Planning Proposal.

Part 1 – Objectives or Intended Objectives

The general objective of this planning proposal is to amend Leichhardt LEP 2000 (“LEP 2000”) to rezone land at 118-124 Terry Street Rozelle (“the Site”) from Industrial to Residential, with some additional uses and controls, to facilitate the remediation and redevelopment of surplus industrial land.

That LEP 2000 be amended by inserting the following additional controls in Schedule 1 of LEP 2000.

118-124 Terry Street, Rozelle site

(1) For the purpose of this Part:

Clause 18 of LEP 2000 will apply to development within the Residential Zone

In addition to the table of uses set out in clause 18 of LEP 2000 the following uses will also be permissible with consent

- Shops, commercial premises and refreshment rooms
- Light industry

the site means the site comprising all of the following land:

118 Terry Street, Rozelle (being Lot 3, Sec D, DP 119)

120 Terry Street , Rozelle (being Lot 2, DP 234045 and

124 Terry Street, Rozelle (being Lot 1, DP 540118)

as shown edged heavy black and lettered SSP on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 19)” deposited in the office of Leichhardt Municipal Council.

(2) Where:

- (a) the design of the development will result in a built form that:
- is of high architectural and urban design merit;
 - is respectful of the scale of the adjoining and nearby existing industrial and residential development with articulated height and massing providing a high quality transition to the existing streetscape; and
 - does not exceed 6 storeys in the centre of the site and three storeys around the perimeter of the site, in accordance with the shadow diagrams and other documents considered by Council at it’s meeting on 19th April 2011.

- (b) the external impacts of the development are well mannered and minimises overshadowing of Crystal Street properties;
- (c) the development minimises the use of private motor vehicles and the traffic generated by the development does not have an unacceptable impact on traffic on Terry Street, Wellington Street, Merton Street, Nelson Street and Victoria Road, Rozelle;
- (d) the non-residential uses serve the needs of people who live and work in the surrounding neighbourhood and does not adversely impact on the high street;
- (e) the development provides and facilitates pedestrian and cycle access through the site to Merton Street and Margaret Street;
- (f) the development incorporates leading environmental sustainable design principles;
- (g) the development includes the necessary design and acoustic measures to ensure the existing industrial uses do not adversely impact on the amenity of future residents; and
- (h) the floor space ratio for all the shops, commercial premises and refreshment rooms is not more than 0.09:1 (*where 0.09:1 = 1,300m²*);
- (i) the gross floor area of any individual non residential tenancy is not more than 23% of the combined permissible floor space ratio for those uses (*where 23% of 0.09:1 = 300m²*);
- (j) *Light industrial uses are limited to the Crystal Street buildings; and*
- (k) the Floor Space Ratio of the whole development is not more than 1.5:1,

The provisions of Clauses 19(2), 19(3) and 23(1) do not apply to the development

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

For the purposes of this Part:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes high technology industry and home industry; and

high technology industry means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,

- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

The general objective of this planning proposal is to amend Leichhardt LEP 2000 (“LEP 2000”) to rezone land at 118-124 Terry Street Rozelle (being Lot 3, Sec D, DP 119, Lot 2, DP 234045 and Lot 1, DP 540118) (“the Site”) from Industrial to Residential, with some additional uses and controls, to facilitate the remediation and redevelopment of surplus industrial land.

It will be achieved by the change of zoning to Residential as shown edged heavy black and lettered SSP on the map marked “Leichhardt Local Environmental Plan 2000 (Amendment No 19)” deposited in the office of Leichhardt Municipal Council and also provided as the Zoning Map at Appendix P).

Additional objectives, uses and controls will also apply to the whole site specified in Section 5 – Part 2 – Objectives of this Planning Proposal as follows.

The reason for permitting these additional objectives, uses and controls is to ensure that the following Desired Future Character from the proposed site specific Development Control Plan for the area and the community benefits summarised in section 3 of the Planning Justification at Appendix C are achieved.

The new character of the site responds to the landform of the site, character of existing streets, the provision of a new public road and the relationship of the site to surrounding residential and commercial properties to create an urban form that will:

- maintain the character of the area by ensuring new development is complementary in terms of its architectural style, built form and materials.
- improve the streetscape amenity by encouraging improved design and layout of buildings as well as increased attention to site usage, signage and ancillary uses.
- promote a mix and variety of uses and building styles that enhance and contribute to the character and identity of the neighbourhood, whilst protecting local townscape;
- improve pedestrian and cycle accessibility, safety and facilities to take full advantage of low cost/public transport services in the area.
- protect and enhance the residential amenity of dwellings in and adjoining the neighbourhood.
- encourage appropriate lighting and signage consistent with the predominant type in the area. Advertising should not become a dominant element in the streetscape.
- encourage sympathetic colour schemes, corporate identity and signage for commercial buildings that define the character of the area, yet retain the individual identity of each property.

Additional Definitions

The definitions of “shops”, “commercial premises” and “refreshment rooms” are already included in LEP 2000 (see Appendix P). It is proposed to include the Standard Instrument LEP definition of ‘light

industry' in LEP 2000 as part of the Planning Proposal given that it is proposed to be a permitted use on the site. This definition includes 'high technology industry' and 'home industry' (also defined in the Standard Instrument LEP) and so these definitions are also to be inserted into LEP 2000 as part of the Planning Proposal. Details of these definitions are provided in Section 5 – Part 2 and at Appendix P of the Planning Proposal .

The reason for providing these additional definitions is to ensure that the Desired Future Character from the proposed site specific Development Control Plan for the area and the community benefits summarised in Section 3 of the Planning Justification at Appendix C can be achieved.

The justification for the Planning Proposal is contained at Appendix C. Further information in relation to specific issues is included in the Reports attached at Appendices D-P.

The Community Consultation strategy for the Planning Proposal is contained at Appendix N.

The Planning Proposal is the culmination of a lengthy and detailed process undertaken by Council for the Terry Street precinct and more recently by Anka in relation to their site. Community engagement has been an integral part of the process and Anka built up a very good rapport with the local groups who generally indicated their support for the original 1.7:1 FSR scheme. However, in order to respond to concerns raised by some local residents and the resolutions of Council, the proposal has been further modified to have an FSR of 1.5:1 and the height of buildings reduced from 6, 7 and 8 storeys to 4-6 storeys.

The Planning Proposal has been further modified to reflect DP&I's Gateway Determination and the changes arising from the detailed design process being undertaken in the preparation of the draft DCP provisions.

As detailed in the Planning Proposal, the proposed LEP amendments are consistent with the relevant local and State strategic planning objectives. The proposal can maintain a reasonable degree of employment uses whilst delivering a residential development that will be more consistent with the surrounding zones.

NOTE: Please see Appendices attached to the Council Report

Appendix P

Zoning Map, FSR Map, Extract of LEP 2000
Zoning Table and Clauses, Definitions Used in
Planning Proposal

Proposed Zoning Map
for draft amendment to LEP 2000

Proposed FSR Map
for draft amendment to LEP 2000

Extract of Zoning Table at Clause 18 of LEP 2000

18. Development Control Table: Residential Zone

The following Table applies to *development* within the Residential Zone:

(1) Description of the zone

The Residential Zone provides for residential development and allows, with consent, other uses which are compatible with residential amenity. Land within this zone is shown coloured pink on the Zoning Map.

(2) Development allowed without development consent

Exempt development

(3) Development allowed only with development consent

Development for the purpose of:

Advertisements
bed and breakfast accommodation
boarding houses
boatsheds
child care facilities
community facilities
community gardens
dwellings
educational establishments
exhibition homes
group homes
health care premises
high impact telecommunication facilities
home based employment
hospitals
housing for seniors or people with a disability
local shops
places of public worship
playgrounds
public transport stops
recreation areas
roads
demolition
subdivision

(4) Prohibited development

Any development not included in item (2) or (3).

Extract of Clauses 19(1), (2), (3) and 23(1) of LEP 2000

19. General Provisions for the Development of Land

(1) Floor space and landscaped area controls

In this clause:

Density area means land shown as a *density area* by heavy black edging on the *density map*.

(2) Except where the *development* is carried out in accordance with clause 23

(1), consent must not be granted to the carrying out of *residential development* on land within a *density area* if it will result in the *floor space ratio* exceeding the ratio shown for the *density area* in the following table:

Density Area Maximum Floor Space Ratio

Leichhardt 0.5:1

Annandale 0.6:1

Balmain 0.7:1

Glebe 0.7:1

(3) Except where the development is carried out in accordance with clause 23 (1):

(a) the minimum landscaped area for residential development is 40% of the site area, and

(b) 25% of the landscaped area required under paragraph (a):

(i) is to be on natural or unpaved ground that is not overhung by or on top of any structure, and

(ii) is to be permeable, and

(iii) is to be appropriate for substantial deep planting

23. General Provisions for the Development of Land

(1) Commercial Floor space control

(a) Consent must not be granted to the carrying out of non-residential development on land within any zone if it will result in the *floor space ratio* of a building on the land exceeding 1:1.

(b) Consent may be granted to the carrying out of mixed residential and other *development* on land within the Business Zone which results in a *floor space ratio* of a building on the land up to 1.5:1, but only if all *Floor space* at the ground *floor* or street level is used for nonresidential purposes (except for any floor space used for service and access purposes required for the residential component of the building in the floors above).

(c) *Residential development* on land within the Business Zone is only allowed in accordance with paragraph (b).

(2)

Definitions used in this Planning Proposal

LEP2000 definitions

Shop means a building or place used for selling, whether by retail or auction, or hiring;

Commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place used for a purpose elsewhere specifically defined in the Schedule to LEP2000;

Refreshment room means a building or place, the principal use of which is the provision of food to people for consumption on the premises, and includes a restaurant, café, tea room, eating house or the like, but does not include a kiosk

Proposed additional definitions to be inserted in LEP 2000 in accordance with the Standard Instrument LEP definitions

Light industry as defined in the means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes high technology industry and home industry); and

high technology industry means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (i) electronic or micro-electronic systems, goods or components,
- (j) information technology (such as computer software or hardware),
- (k) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (l) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (m) film, television or multi-media technologies, including any post production systems, goods or components,
- (n) telecommunications systems, goods or components,
- (o) sustainable energy technologies,
- (p) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (f) the employment of more than 2 persons other than those residents,
- (g) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (h) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (i) the exhibition of any signage (other than a business identification sign),
- (j) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.