

Contact: Clare Harley
Phone: 9367 9226

26 February 2014

Dr Sam Haddad
Director-General
Planning and Infrastructure
GPO Box 39
Sydney NSW 2001



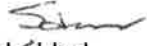
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Attention: Lee Mulvey
Director Metropolitan Delivery (CBD)

RECEIVED

05 MAR 2014

Director-General


Dear Dr Haddad

Submission of a Planning Proposal for Proposed Amendments to Leichhardt Local Environmental 2013

At the Council Meeting held on the 10th December 2013 Leichhardt Council resolved (C582/13) to advise Planning and Infrastructure of the changes required to the Leichhardt Local Environmental Plan (LEP) 2013 and initiate the plan making process (Planning Proposal) for making the changes, namely:

1. Amendments to Schedule 1 Additional Permitted Uses to address issues associated with the use of the group term commercial premises;
2. Amendments to Schedule 5 Environmental Heritage as a consequence of the Heritage Inventory Sheets Review;
3. Heritage Listing of 79 Allen Street, Leichhardt;
4. Inclusion of clause relating to Sex Service Premises by the Department of Planning and Infrastructure; and
5. Amendments to the land use table for Zones B1 Neighbourhood Centre and B2 Local Centre to permit all types of residential accommodation and inclusion of a new clause *Residential Accommodation in Zones B1 Neighbourhood Centre and B2 Local Centre* to accompany.

A separate Planning Proposal has been prepared for each item (outlined above) and is attached to this letter. Each Planning Proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the Planning and Infrastructure guides titled, "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Leichhardt Council requests the Minister for Planning and Infrastructure's Gateway Determination on the Planning Proposal in accordance with section 56 of the Act.

Council also confirms that it wishes to have the plan making function for these proposed amendments to Leichhardt Local Environmental Plan 2013 delegated to Council (refer Attachment 6 Resolution 582/13)

IMPORTANT

This letter contains important information. If you do not understand it please ask a relative or friend to translate it or come to Council and discuss the letter with Council's staff using the Telephone Interpreter Service.

English

IMPORTANTE

Questa lettera contiene delle informazioni importanti. Se non capisce il contenuto è pregata di chiedere aiuto ad un parente o un amico, oppure La Invitiamo di venire in prersona al Municipio a parlarne con un nostro implegato, utilizzando il Servizio Interprete Telefonico.

Italian

IMPORTANTE

Esta carta contiene información importante. Si usted no la entiende, pídale a un familiar o a un amigo que se la traduzca, o venga a la Oficina de la Municipalidad y hable acerca de la misma con el personal de la oficina a través del Servicio Telefónico de Intérpretes.

Spanish

TIN QUAN TRỌNG

Tin tức trong thư này rất quan trọng. Nếu bạn không hiểu, hãy nhờ thân nhân hoặc bạn bè dịch cho bạn nghe hoặc tới văn phòng Hội Đồng Thành Phố để thảo luận với nhân viên qua dịch vụ thông ngôn điện thoại.

Vietnamese

ΠΡΟΣΟΧΗ

To γράμμα αυτό περιέχει σπουδαίες πληροφορίες. Αν δεν το καταλαβαίνετε, παρακαλέστε ένα συγγενή ή φίλο να σας το μεταφράσει, ή ελάτε στο Δημαρχείο και συζητήστε το γράμμα με το προσωπικό του Δημαρχείου χρησιμοποιώντας την Τηλεφωνική Υπηρεσία Διερμηνέων.

Greek

重要信息

此信包含重要內容。若有不明白之處，可請親戚或朋友幫助翻譯。或請到市政會來，通過電話傳譯服務與市政會人員討論信的內容。

Chinese

Leichhardt Council looks forward to working with Planning and Infrastructure to progress these Planning Proposals. Council is committed to ensuring that the proposed changes to Leichhardt LEP 2013 outlined in the Planning Proposals are made in a timely manner so that they are incorporated within the final plan.

Should you have any further questions regarding this matter, please contact Clare Harley Manager, Environment and Urban Planning on 9367 9226, or by email at clareha@lmc.nsw.gov.au,

Yours sincerely



Peter Head
GENERAL MANAGER

Attachments Enclosed

	Planning Proposals for Proposed Amendments to exhibited Draft LEP 2012
Item 1	Amendments to Schedule 1 Additional Permitted Uses to address issues associated with the use of the group term commercial premises
Item 2	Amendments to Schedule 5 Environmental Heritage as a consequence of the Heritage Inventory Sheets Review
Item 3	Heritage Listing of 79 Allen Street, Leichhardt
Item 4	Inclusion of clause relating to Sex Service Premises by the Department of Planning and Infrastructure
Item 5	Amendments to the land use table for Zones B1 Neighbourhood Centre and B2 Local Centre to permit all types of residential accommodation and inclusion of a new clause <i>Residential Accommodation in Zones B1 Neighbourhood Centre and B2 Local Centre</i> to accompany
Item 6	Resolution C582/13
Item 7	Evaluation Criteria For The Delegation of Plan Making Functions

**PROPOSED HOUSEKEEPING AMENDMENTS TO
LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

PLANNING PROPOSAL

ITEM 4

LOCAL PROVISION – SEX SERVICE PREMISES CLAUSE

Part 1 – Objectives or Intended Outcomes

This planning proposal seeks to notify the community of the inclusion of the Department of Planning and Infrastructures clause relating to Sex Service Premises in Council's new standard instrument Local Environmental Plan (LEP) – *Leichhardt LEP 2013*.

The objective of the proposal is to give the community the opportunity to comment on the inclusion of the clause.

Part 2 – Explanation of the Provisions

The clause detailed below will be included in Part 6 Local Provisions of the Leichhardt LEP 2013. At the time this proposal was prepared the Leichhardt LEP 2013 was yet to be finalised. Publication on the NSW Legislation Website is imminent.

Clause 6.16 Sex Service Premises

- (1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following:
 - (a) whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land:
 - (i) in Zone R1 General Residential or Zone RE1 Public Recreation, or
 - (ii) used for the purposes of a child care centre, a community facility, a school or a place of public worship,
 - (b) the impact the proposed development and its hours of operation is likely to have on any place likely to be regularly frequented by children:
 - (i) that adjoins the proposed development, or
 - (ii) that can be viewed from the proposed development, or
 - (iii) from which a person can view the proposed development.

Part 3 – Justification

Section A – Need for planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No this planning proposal is not a result of any strategic study or report. Planning and Infrastructure had indicated that the Sex Service clause would be included in the Leichhardt LEP 2013 in accordance with condition 10 of the section 65 certificate issued on the 2nd July 2012.

The drafting of this clause was subject to much discussion between Planning and Infrastructure and Council in the preparation of the Leichhardt LEP. Council has undertaken a translation of the *Leichhardt LEP 2000*. That means that Council adopted a Policy neutral stance in relation to sex services premises and did not seek to vary the circumstances in which sex services premises are permissible with consent.

The clause that dealt with sex service premises under the previous *Leichhardt LEP 2000* was 23(5) *Development for the purpose of brothels or sex shops*. Clause 23(5) made provision for sex service premises to operate in the municipality and sought to prevent adverse effects on surrounding land and clustering of sex services in any particular area.

Clause 23(5) was found to be a practical clause that was used to manage the interface between sex service premises and other land uses.

At its meeting on the 27th November 2012 Council considered a report on the section 65 certificate and public exhibition of the Draft Leichhardt LEP 2012 where it resolved not to adopt the Sex Service clause outlined in condition 10 of the s65 certificate, as issued by the Department of Planning and Infrastructure.

The Council's LEP Working Group considered that the strongest way to translate *Leichhardt LEP 2000* to the Standard Instrument format was to assess applications for sex service premises on merit under the provisions of 79C of the *Environmental Planning and Assessment Act 1979* and consider including provisions within the new Development Control Plan.

As a result the Sex Service clause outlined in condition 10 of the section 65 certificate was not included in the exhibited Draft Leichhardt LEP 2012. Planning and Infrastructure subsequently advised Council that compliance with the certificate is mandatory and the clause outlined in condition 10 must be included.

The objective of the clause and the considerations it lists in sub-clause 2 (a) and (b) are consistent with matters Council already takes into account in assessment of development applications for sex service premises. The inclusion of the proposed clause will therefore be a translation of Council's existing practice.

Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The proposal involves an amendment to the *Leichhardt LEP 2013* that is considered to be of significance and requires exhibition and community consultation. The planning proposal is the best way of achieving this.

Section B – Relationship to strategic planning framework.

Q3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The planning proposal is consistent with the State Government's current Metropolitan Plan for Sydney 2036, the Draft Metropolitan Strategy for Sydney 2031 (exhibited) and the Inner West Draft Subregional Strategy. The following actions and objectives outlined in the tables below are of particular relevance.

Metropolitan Plan for Sydney to 2036 (Current)
Objective
H3 – To provide healthy, safe and inclusive places based on active transport
Draft Metropolitan Strategy for Sydney to 2031 (Exhibited)
Objective
8 – Create socially inclusive places that create social cultural and recreational opportunities
23 – Protect, enhance and rehabilitate our biodiversity
Inner West Draft Subregional Strategy
Action
G1.2 – Improve local planning and assessment

Q4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the following objectives within Council's Community Strategic Plan 'Leichhardt 2020+' and 'Draft Leichhardt 2025+'.

Leichhardt 2020+
1 Community Well-being
1.1 Develop & implement an integrated community planning framework
3 Place Where We live and Work
3.1 Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. 3.2 Develop a clear, consistent and equitable planning framework and process that enables people to develop our area according to a shared vision for the community.
6 Sustainable Services & Assets
6.1 Apply our Values to deliver transparent, consistent, efficient and effective participative processes.

Draft Leichhardt 2025+
Community well being
Health and Wellbeing are promoted
Place where we live and work
- Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. - A clear, consistent and equitable planning framework and process is provided that enables people to develop our area according to a shared vision for the community.
Business in the Community
Places are created that attract and connect people.
Sustainable Service and Assets
Transparent, consistent, efficient and effective participative processes are delivered.

Q5. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with the applicable State Environmental Planning Policies see table below.

Consideration of State Environmental Planning Policies (SEPPs)

SEPP Title	Applicable	Comments
1. Development Standards	No	Will not apply to LGA on adoption of the Standard Instrument LEP.
14. Coastal Wetlands	No	This LGA does not contain any coastal wetlands.
15. Rural Landsharing Communities	No	This LGA does not contain any rural land.
19. Bushland in Urban Areas	No	N/A to proposal.
21. Caravan Parks	No	N/A to proposal.

SEPP Title	Applicable	Comments
26. Littoral Rainforests	No	This LGA does not include any littoral rainforests.
29. Western Sydney Recreation Area	No	Does not apply to this LGA.
30. Intensive Agriculture	No	Development covered by this SEPP does not occur in this LGA.
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A to proposal.
33. Hazardous and Offensive Development	No	N/A to proposal.
36. Manufactured Home Estates	No	Does not apply to this LGA.
39. Spit Island Bird Habitat	No	Does not apply to this LGA.
44. Koala Habitat Protection	No	Does not apply to this LGA.
47. Moore Park Showground	No	Does not apply to this LGA.
50. Canal Estate Development	No	Does not apply to this LGA.
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	Does not apply to this LGA.
55. Remediation of Land	No	N/A to proposal.
59. Central Western Sydney Regional Open Space and Residential	No	Does not apply to this LGA.
62. Sustainable Aquaculture	No	Development covered by this SEPP does not occur in this LGA.
64. Advertising and Signage	No	N/A to proposal.
65. Design Quality of Residential Flat Development	No	N/A to proposal.
70. Affordable Housing (Revised Schemes)	No	N/A to proposal.
71. Coastal Protection	No	Applies only to the coastal zone. LGA is not within the coastal zone.
SEPP (Affordable Rental Housing) 2009	No	N/A to proposal.
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A to proposal.
SEPP (Exempt and Complying Development Codes) 2008	No	N/A to proposal.
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A to proposal.
SEPP (Infrastructure) 2007	No	N/A to proposal.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No	Does not apply to this LGA.
SEPP (Kurnell Peninsula) 1989	No	Does not apply to this LGA.
SEPP Major Development 2005	No	N/A to proposal.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A to proposal.
SEPP (Penrith Lakes Scheme) 1989	No	Does not apply to this LGA.
SEPP (Port Botany and Port Kembla) 2013	No	Does not apply to this LGA.
SEPP (Rural Lands) 2008	No	Does not apply to this LGA.
SEPP (SEPP 53 Transitional Provisions) 2011	No	Does not apply to this LGA.
SEPP (State and Regional Development) 2011	No	N/A to proposal.
SEPP (Sydney Drinking Water Catchment) 2011	No	Does not apply to this LGA.

SEPP Title	Applicable	Comments
SEPP (Sydney Region Growth Centres) 2006	No	Does not apply to this LGA.
SEPP (Miscellaneous Consent Provisions) 2007	No	N/A to proposal.
SEPP (Urban Renewal) 2010	No	Does not apply to this LGA.
SEPP (Western Sydney Employment Area) 2009	No	Does not apply to this LGA.
SEPP (Western Sydney Parklands) 2009	No	Does not apply to this LGA.

Consideration of deemed State Environmental Planning Policies (SEPPs) (former Regional Environmental Plans (REPs))

REP Title	Applicable	Consistent
8. Central Coast Plateau Areas	No	Does not apply to this LGA.
9. Extractive Industry (No 2—1995)	No	Does not apply to this LGA.
16. Walsh Bay	No	Does not apply to this LGA.
18. Public Transport Corridors	No	Does not apply to this LGA.
19. Rouse Hill Development Area	No	Does not apply to this LGA.
20. Hawkesbury-Nepean River (No 2—1997)	No	Does not apply to this LGA.
24. Homebush Bay Area	No	Does not apply to this LGA.
25. Orchard Hills	No	Does not apply to this LGA.
26. City West	No	N/A to proposal.
28. Parramatta	No	Does not apply to this LGA.
30. St Marys	No	Does not apply to this LGA.
33. Cooks Cove	No	Does not apply to this LGA.
SREP (Sydney Harbour Catchment) 2005	No	N/A to proposal.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

The planning proposal is consistent with the applicable Ministerial Directions (s.117 Directions) see table below.

Consideration of Ministerial Directions

s.117 Direction Title	Applicable	Consistent	Comments
1. Employment & Resources			
1.1 Business and Industrial Zones	Yes	N/A	Consistent with the terms of the direction.
1.2 Rural Zones	No	N/A	
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	
1.4 Oyster Aquaculture	No	N/A	
1.5. Rural lands	No	N/A	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	It is considered that there is no change to existing policy.

s.117 Direction Title	Applicable	Consistent	Comments
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
3.4 Integrating Land Use & Transport	No	N/A	
3.5 Development near licensed aerodromes	Yes	Yes	Proposal does not change existing policy.
3.6 Shooting Ranges	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	Yes	Yes	Proposal does not change existing policy.
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	Yes	Yes	Proposal does not change existing policy.
4.4 Planning for Bush Fire Protection	No	N/A	
5. Regional Planning			
5.1 Implementation of Regional Strategies	No	N/A	
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significant on the NSW Far North Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	Consistent with the terms of this direction.
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	Yes	Yes	Consistent with

s.117 Direction Title	Applicable	Consistent	Comments
			the terms of this direction.
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Yes	Yes	Consistent with the terms of this direction see Q3.

Q6. *Is the planning proposal consistent with applicable Ministerial Directions*

Section C – Environmental, social and economic impact

Q7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. Should it be discovered through community consultation, or by another means, that species, populations, communities or habitats may be adversely affected, this will be taken into consideration and the planning proposal will be modified if necessary.

Q8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Given the nature of the proposal it is not anticipated that there will be any adverse environmental effects.

Q9. *How has the planning proposal adequately addressed any social and economic effects?*

Section D – State and Commonwealth interests

Q10. *Is there adequate public infrastructure for the planning proposal?*

Given the nature of the proposal the above question is not considered relevant.

Q11. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?*

This section of the planning proposal is completed following the gateway determination which identifies which State and Commonwealth Public Authorities are to be consulted.

Part 4 – Mapping

Not required for this proposal.

Part 5 – Community Consultation

This component of the planning proposal is not considered to be low impact, in that the clause will be included in Council's new comprehensive Local Environmental Plan but has not yet been the subject of community consultation. As such Council considers that the planning proposal be exhibited for a minimum of 28 days.

Part 6 – Project Timeline

Anticipated Project Timeline	Proposed Date (s)
Anticipated commencement date (date of Gateway determination)	1 April 2014
Anticipated timeframe for the completion of required technical information	Not required.
Timeframe for government agency consultation	21 Days
Commencement and completion dates for public exhibition period	6 May 2014 – 3 June 2014
Dates for public hearing (if required)	To be determined post exhibition - unlikely
Timeframe for consideration of submissions	June 2014
Report final Draft Planning Proposal to Council	22 July 2014
Date of submission to Planning and Infrastructure to finalise the LEP	23 July 2014

**PROPOSED HOUSEKEEPING AMENDMENTS TO
LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

PLANNING PROPOSAL

ITEM 5

**RESIDENTIAL ACCOMODATION IN
ZONES B1 NEIGHBOURHOOD CENTRE AND B2 LOCAL CENTRE**

Part 1 – Objectives or Intended Outcomes

This planning proposal seeks to:

- amend the Land Use Tables for Zones B1 Neighbourhood Centre and B2 Local Centre to permit all types of Residential Accommodation, and
- include a new clause in Part 6 Additional Local Provisions that relates to *Residential Accommodation in Zones B1 Neighbourhood Centre and B2 Local Centre*.

The intended outcomes of the amendments are to ensure:

- a more accurate translation of the types of residential uses permissible under *Leichhardt Local Environmental Plan (LEP) 2000* in the Business Zone, and
- that residential accommodation is permissible in the B1 Neighbourhood Centre and B2 Local Centre above all types of non-residential uses.

Part 2 – Explanation of the Provisions

The proposed amendments to the *Leichhardt Local Environmental Plan 2013* are detailed in the tables below.

Part 2 Permitted and prohibited development

Zone	Proposed Change
B1 Neighbourhood Centre	Group term residential accommodation to be permissible with consent. Delete from Item 4 prohibited • attached dwellings • dual occupancies • dwelling houses • multi dwelling housing • residential flat buildings • rural workers' dwellings • semi-detached dwellings
B2 Local Centre	Group term residential accommodation to be permissible with consent. Delete from Item 4 prohibited • attached dwellings • dual occupancies • dwelling houses • group homes transitional • multi dwelling housing • residential flat buildings • rural workers' dwellings • semi-detached dwellings

Part 6 Local Provisions

New Clause – 6.17 Residential accommodation in Zones B1 Neighbourhood Centre and B2 Local Centre

- (1) The objective of this clause is to promote residential accommodation as part of mixed use developments in business zones to support the vitality of neighbourhood and local centres.
- (2) This clause applies to land in Zone B1 Neighbourhood Centre and B2 Local Centre.
- (3) Development consent must not be granted to development for the purpose of residential accommodation on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the building comprises mixed use development, including residential accommodation;
 - (b) the building will have an active street frontage;
 - (c) the building is compatible with desired future character of the area in relation to its bulk, form, uses and scale.
- (4) In this clause, a building has an active street frontage if all floor space on the ground floor of the building on the primary street frontage is used for a purpose other than residential accommodation (with the exception of areas for access or service purposes).

Part 3 – Justification

Section A – Need for planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No this planning proposal is not a result of any strategic study or report. During the legal drafting of the new comprehensive LEP - *Leichhardt LEP 2013* it has become apparent that the provisions in relation to permissible ground floor and upper floor uses in mixed use developments within the business zone under *Leichhardt LEP 2000* have not been fully translated.

Clause 23 (1)(b) of *Leichhardt LEP 2000* enabled dwellings and other forms of residential development to be erected in the Business Zone so long as the floor space (with the exception of access and service areas) at the ground floor or primary street level is used for all types of non-residential uses.

Council aimed to translate the provisions of clause 23(1)(b) into the *Draft LEP 2012* (Exhibited) under Clause 4.4A Floor space ratio incentives for active street frontages.

Under the *Leichhardt LEP 2013* the following types of residential accommodation, as defined under the SI, are permissible within B2 Local Centre:

- boarding houses,
- group homes (group homes permanent and transitional),
- hostels,
- secondary dwellings,
- seniors housing, and
- shop top housing.

The following types of residential accommodation are prohibited:

- attached dwellings,
- dual occupancies,
- dwelling houses,

- multi dwelling housing,
- residential flat buildings,
- rural workers' dwellings, and
- semi-detached dwellings.

The types of residential accommodation permissible within B1 Neighbourhood Centre are the same as the B2 Local Centre except that group homes transitional and hostels are prohibited.

The exhibited Clause 4.4A enables all types of non-residential uses at ground floor. This however is inconsistent with the definition of shop top housing (Refer Tables in Part 4) which only allows for business and retail premises and excludes other types of non-residential uses.

Council needs to ensure that the intent and objective of Clause 23(1) (b) is translated into the *Leichhardt LEP 2013* and that its translation does not result in any unintended consequences, such as preventing housing above other types of suitable non-residential uses such as office premises and community facilities.

Council is not allowed to amend or add new definitions therefore to ensure a more accurate translation of Clause 23 1(b) Council is proposing to:

- permit all forms of residential accommodation within the business zones, and\
- include a new clause under Part 6 that will make all types of residential accommodation permissible with consent so long as the ground floor (with the exception of areas for access or service purposes) can be used for non-residential purposes.

Permitting all forms of residential accommodation is consistent with Council's current approach under *Leichhardt LEP 2000* where all forms of residential accommodation are permitted by way of the definition of dwelling. The Standard Instrument (SI) also includes definition of dwelling which is equivalent to *Leichhardt LEP 2000* definition, but it is not a land use term. The SI defines different forms of dwelling types under the group term residential accommodation.

Refer to Part 4

- Table 1 Applicable definitions under the Standard Instrument Local Environmental Plan
- Table 2 Translation of Clause 23 (1) (b) into Standard Instrument Format (LEP 2000 vs LEP 2013).
- Table 3 Permissible ground floor and upper floor uses in mixed use developments in Business zones (LEP 2000 vs LEP 2013)

Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The proposal involves an amendment to the LEP 2013 that is considered to be of significance and requires exhibition and community consultation. The planning proposal is the best way of achieving this.

Section B – Relationship to strategic planning framework.

Q3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is consistent with the State Government's current Metropolitan Plan for Sydney 2036, the Draft Metropolitan Strategy for Sydney 2031 (exhibited) and the Inner West Draft Subregional Strategy. The following actions and objectives outlined in the tables below are of particular relevance.

Metropolitan Plan for Sydney to 2036 (Current)
Objective
D1 To produce housing that suits our expected future needs

Draft Metropolitan Strategy for Sydney to 2031 (Exhibited)
Objective
6 – Deliver a mix of well-designed housing that meets the needs of Sydney's population
7 – Deliver well designed and active centres that attract investment and growth

Inner West Draft Subregional Strategy
Action
C.2.3 – Provide a mix of housing
G1.2 – Improve local planning and assessment

Q4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the following objectives within Council's Community Strategic Plan 'Leichhardt 2020+' and 'Draft Leichhardt 2025+'.

Leichhardt 2020+
1 Community Well-being
1.1 Develop & implement an integrated community planning framework community
2 Accessibility
2.4 Plan local community facilities, business and services to fit the places we live and the way we want to live.
3 Place Where We live and Work
3.1 Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. 3.2 Develop a clear, consistent and equitable planning framework and process that enables people to develop our area according to a shared vision for the community.
6 Sustainable Services & Assets
6.1 Apply our Values to deliver transparent, consistent, efficient and effective participative processes.

Draft Leichhardt 2025+
Place where we live and work
- Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. - A clear, consistent and equitable planning framework and process is provided that enables people to develop our area according to a shared vision for the community. - An integrated planning process is promoted to make planning easier for the

Draft Leichhardt 2025+

community and to establish a service that people want to use.

Sustainable Service and Assets

- Transparent, consistent, efficient and effective participative processes are delivered.

Q5. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with the applicable State Environmental Planning Policies see table below.

Consideration of State Environmental Planning Policies (SEPPs)

SEPP Title	Applicable	Comments
1. Development Standards	No	Will not apply to LGA on adoption of the Standard Instrument LEP.
14. Coastal Wetlands	No	This LGA does not contain any coastal wetlands.
15. Rural Landsharing Communities	No	This LGA does not contain any rural land.
19. Bushland in Urban Areas	No	N/A to proposal.
21. Caravan Parks	No	N/A to proposal.
26. Littoral Rainforests	No	This LGA does not include any littoral rainforests.
29. Western Sydney Recreation Area	No	Does not apply to this LGA.
30. Intensive Agriculture	No	Development covered by this SEPP does not occur in this LGA.
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A to proposal.
33. Hazardous and Offensive Development	No	N/A to proposal.
36. Manufactured Home Estates	No	Does not apply to this LGA.
39. Spit Island Bird Habitat	No	Does not apply to this LGA.
44. Koala Habitat Protection	No	Does not apply to this LGA.
47. Moore Park Showground	No	Does not apply to this LGA.
50. Canal Estate Development	No	Does not apply to this LGA.
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	Does not apply to this LGA.
55. Remediation of Land	No	N/A to proposal.
59. Central Western Sydney Regional Open Space and Residential	No	Does not apply to this LGA.
62. Sustainable Aquaculture	No	Development covered by this SEPP does not occur in this LGA.
64. Advertising and Signage	No	N/A to proposal.
65. Design Quality of Residential Flat Development	No	N/A to proposal.
70. Affordable Housing (Revised Schemes)	No	N/A to proposal.
71. Coastal Protection	No	Applies only to the coastal

SEPP Title	Applicable	Comments
		zone. LGA is not within the coastal zone.
SEPP (Affordable Rental Housing) 2009	No	N/A to proposal.
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A to proposal.
SEPP (Exempt and Complying Development Codes) 2008	No	N/A to proposal.
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A to proposal.
SEPP (Infrastructure) 2007	No	N/A to proposal.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No	Does not apply to this LGA.
SEPP (Kurnell Peninsula) 1989	No	Does not apply to this LGA.
SEPP Major Development 2005	No	N/A to proposal.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A to proposal.
SEPP (Penrith Lakes Scheme) 1989	No	Does not apply to this LGA.
SEPP (Port Botany and Port Kembla) 2013	No	Does not apply to this LGA.
SEPP (Rural Lands) 2008	No	Does not apply to this LGA.
SEPP (SEPP 53 Transitional Provisions) 2011	No	Does not apply to this LGA.
SEPP (State and Regional Development) 2011	No	N/A to proposal.
SEPP (Sydney Drinking Water Catchment) 2011	No	Does not apply to this LGA.
SEPP (Sydney Region Growth Centres) 2006	No	Does not apply to this LGA.
SEPP (Miscellaneous Consent Provisions) 2007	No	N/A to proposal.
SEPP (Urban Renewal) 2010	No	Does not apply to this LGA.
SEPP (Western Sydney Employment Area) 2009	No	Does not apply to this LGA.
SEPP (Western Sydney Parklands) 2009	No	Does not apply to this LGA.

Consideration of deemed State Environmental Planning Policies (SEPPs) (former Regional Environmental Plans (REPs))

REP Title	Applicable	Consistent
8. Central Coast Plateau Areas	No	Does not apply to this LGA.
9. Extractive Industry (No 2—1995)	No	Does not apply to this LGA.
16. Walsh Bay	No	Does not apply to this LGA.
18. Public Transport Corridors	No	Does not apply to this LGA.
19. Rouse Hill Development Area	No	Does not apply to this LGA.
20. Hawkesbury-Nepean River (No 2—1997)	No	Does not apply to this LGA.
24. Homebush Bay Area	No	Does not apply to this LGA.
25. Orchard Hills	No	Does not apply to this LGA.
26. City West	No	N/A to proposal.
28. Parramatta	No	Does not apply to this LGA.
30. St Marys	No	Does not apply to this LGA.
33. Cooks Cove	No	Does not apply to this LGA.
SREP (Sydney Harbour Catchment) 2005	No	N/A to proposal.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

The planning proposal is consistent with the applicable Ministerial Directions (s.117 Directions) see table below.

Consideration of Ministerial Directions

s.117 Direction Title	Applicable	Consistent	Comments
1. Employment & Resources			
1.1 Business and Industrial Zones	Yes	Yes	Consistent with the terms of this direction.
1.2 Rural Zones	No	N/A	
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	
1.4 Oyster Aquaculture	No	N/A	
1.5. Rural lands	No	N/A	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Yes	Yes	Consistent with the terms of this direction.
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	Yes	Yes	Consistent with the terms of this direction.
3.4 Integrating Land Use & Transport	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
3.5 Development near licensed aerodromes	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
3.6 Shooting Ranges	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	Yes	Yes	Proposal does not change existing policy.
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	Yes	Yes	Proposal does not change existing policy.

s.117 Direction Title	Applicable	Consistent	Comments
4.4 Planning for Bush Fire Protection	No	N/A	
5. Regional Planning			
5.1 Implementation of Regional Strategies	No	N/A	
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significant on the NSW Far North Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	Consistent with the terms of this direction.
6.2 Reserving Land for Public Purposes	Yes	Yes	Consistent with the terms of this direction. Proposal does not change existing policy.
6.3 Site Specific Provisions	Yes	Yes	Consistent with the terms of this direction.
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Yes	Yes	Consistent with the terms of this direction see Q3.

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. Should it be discovered through community consultation, or by another means, that species, populations, communities or habitats may be adversely affected, this will be taken into consideration and the planning proposal will be modified if necessary.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Given the nature of the proposal it is not anticipated that there will be any adverse environmental effects.

Q9. *How has the planning proposal adequately addressed any social and economic effects?*

Given the nature of the proposal (administrative changes to ensure the controls contained within the new LEP reflect existing controls within the *Leichhardt LEP 2000*) it is not anticipated that there will be any social or economic effects.

Section D – State and Commonwealth interests

Q10. *Is there adequate public infrastructure for the planning proposal?*

Given the nature of the proposal the above question is not considered relevant.

Q11. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?*

This section of the planning proposal is completed following the gateway determination which identifies which State and Commonwealth Public Authorities are to be consulted.

Part 4 – Mapping/Figures

Table 1 Applicable definitions under the Standard Instrument Local Environmental Plan

Definitions under the Standard Instrument Local Environmental Plan
dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following: (a) attached dwellings, (b) boarding houses, (c) dual occupancies, (d) dwelling houses, (e) group homes, (f) hostels, (g) multi dwelling housing, (h) residential flat buildings, (i) rural workers' dwellings, (j) secondary dwellings, (k) semi-detached dwellings, (l) seniors housing, (m) shop top housing, but does not include tourist and visitor accommodation or caravan parks. attached dwelling means a building containing 3 or more dwellings, where: (a) each dwelling is attached to another dwelling by a common wall, and (b) each of the dwellings is on its own lot of land, and (c) none of the dwellings is located above any part of another dwelling. Note. Attached dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

Definitions under the Standard Instrument Local Environmental Plan

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
 - (b) provides lodgers with a principal place of residence for 3 months or more, and
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,
- but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. Boarding houses are a type of residential accommodation—see the definition of that term in this Dictionary.

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

Note. Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary.

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Note. Dual occupancies (attached) are a type of dual occupancy—see the definition of that term in this Dictionary.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Note. Dual occupancies (detached) are a type of dual occupancy—see the definition of that term in this Dictionary.

dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary.

group home means a permanent group home or a transitional group home.

Note. Group homes are a type of residential accommodation—see the definition of that term in this Dictionary.

group home (permanent) or permanent group home means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
 - (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,
- but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note. Permanent group homes are a type of group home—see the definition of that term in this Dictionary.

group home (transitional) or transitional group home means a dwelling:

Definitions under the Standard Instrument Local Environmental Plan

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note. Transitional group homes are a type of group home—see the definition of that term in this Dictionary.

hostel means premises that are generally staffed by social workers or support providers and at which:

(a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

(b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

Note. Hostels are a type of residential accommodation—see the definition of that term in this Dictionary.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note. Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note. Residential flat buildings are a type of residential accommodation—see the definition of that term in this Dictionary.

rural worker's dwelling means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

Note. Rural workers' dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

secondary dwelling means a self-contained dwelling that:

(a) is established in conjunction with another dwelling (the principal dwelling), and

(b) is on the same lot of land as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

Definitions under the Standard Instrument Local Environmental Plan

Note. Semi-detached dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.

seniors housing means a building or place that is:

- (a) a residential care facility, or
 - (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
 - (c) a group of self-contained dwellings, or
 - (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
- and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability, or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,
- but does not include a hospital.

Note. Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note. Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Table 2 Translation of Clause 23 (1) (b) into Standard Instrument Format (LEP 2000 vs LEP 2013)

LEP 2000	Draft LEP 2012 – Exhibited	LEP 2013
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 non-residential 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).	4.4A Floor space ratio incentives for active street frontages [local] (1) The objective of this clause is to provide floor space incentives for mixed use development which provides active street frontages at ground floor level in Zone B1 Neighbourhood Centre or Zone B2 Local Centre. (2) This clause applies to land shown within "Area 1" on the Floor Space Ratio Map. (3) Despite clause 4.4, the maximum floor space ratio for mixed use development that includes residential accommodation in "Area 1" is 1.5:1 provided that: (a) the development is on land identified as "Area 1" on the Floor Space Ratio Map, and (b) the development comprises a mixed use of uses, and (c) all floor space at ground floor level or the primary street level is used for non-residential purposes (except for any floor space used for service and access purposes required for the residential component above), and (d) the consent authority is satisfied that the development is compatible with the desired future character of the area in terms of building bulk, form and scale. (4) For the purpose of this clause, the term "non-residential purposes" means any other purpose other than residential accommodation.	4.4A Exception to maximum floor space ratio for active street frontages (1) The objective of this clause is to provide floor space incentives for mixed use development that incorporates active street frontages at ground floor level in Zone B1 Neighbourhood Centre or Zone B2 Local Centre. (2) This clause applies to land identified as "Area 1" on the Floor Space Ratio Map. (3) Despite clause 4.4, the maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied that: (a) the building will have an active street frontage, and (b) the building comprises mixed use development, including residential accommodation, and (c) the building is compatible with the desired future character of the area in relation to its bulk, form, uses and scale. (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following: (a) entrances and lobbies (including as part of mixed use development), (b) access for fire services, (c) vehicular access. (5) In this clause, a building has an active street frontage if all floor space on the ground floor of the building facing the street is used for a purpose other than residential accommodation.

Table 3 Permissible ground floor and upper floor uses in mixed use developments in Business zones (LEP 2000 vs LEP 2013)

	LEP 2000 - Business	LEP 2013 B1 Neighbourhood Centre	LEP 2013 B2 Local Centre
Ground floor Uses	All non-residential development permissible within defined in the LEP 2000 that are permissible with consent.	All non-residential use permitted with consent in B1 Zone.	All non-residential use permitted with consent in B2 Zone.
Upper Floor Uses – Residential	Dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. • Bed and breakfast accommodation • Boarding house • Exhibition homes • Group homes • Home based employment • SEPP 5 Housing Residential development means development for the purpose of bed and breakfast accommodation, boarding houses, boatsheds, dwellings, exhibition homes, group homes, home based employment or SEPP 5 housing.	dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. The definition of dwelling is equivalent to LEP 2000 definition however in the Standard Instrument (SI) dwellings is not a land use term. SI defines different forms of dwelling types under the group term Residential Accommodation. The following types of residential accommodation in Zone B1 are: Permitted with consent • secondary dwellings • boarding houses • group homes permanent • hostels • seniors housing • shop top housing – only permissible with ground floor Business and Retail premises Prohibited • attached dwellings • dual occupancies • dwelling houses • multi dwelling housing, • residential flat buildings • rural workers' dwellings, and • semi-detached dwellings.	dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. The definition of dwelling is equivalent to LEP 2000 definition however in the Standard Instrument (SI) dwellings is not a land use term SI defines different forms of dwelling types under the group term Residential Accommodation. The following types of residential accommodation in Zone B2 are: Permitted with consent • secondary dwellings • boarding houses • group homes (group homes permanent and transitional) • hostels • seniors housing • shop top housing – only permissible with ground floor Business and retail premises Prohibited • attached dwellings • dual occupancies • dwelling houses • group homes transitional • multi dwelling housing • residential flat buildings • rural workers' dwellings • semi-detached dwellings.

Part 5 – Community Consultation

This component of the planning proposal is considered to be low impact, in that:

- it is an administrative changes to ensure the controls contained within the new LEP reflect existing controls within the Leichhardt LEP 2000;
- it is consistent with the strategic planning framework,
- presents no issues with regards to infrastructure servicing,
- is not a principal Local Environmental Plan, and
- does not reclassify public land.

It is outlined in “*A guide to preparing local environmental plans*” that community consultation for a low impact planning proposal is usually 14 days. Given that there are other planning proposal items that are not considered to be low impact, it is Councils preference that the planning proposal be exhibited for a minimum of 28 days.

Part 6 – Project Timeline

Anticipated Project Timeline	Proposed Date (s)
Anticipated commencement date (date of Gateway determination)	1 April 2014
Anticipated timeframe for the completion of required technical information	Not required.
Timeframe for government agency consultation	21 Days
Commencement and completion dates for public exhibition period	6 May 2014 – 3 June 2014
Dates for public hearing (if required)	To be determined post exhibition - unlikely
Timeframe for consideration of submissions	June 2014
Report final Draft Planning Proposal to Council	22 July 2014
Date of submission to Planning and Infrastructure to finalise the LEP	23 July 2014

ITEM 6 Council Resolution C583/13 10 December 2013

ITEM B6 HOUSEKEEPING AMENDMENTS TO LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

C583/13 RESOLVED BYRNE / KELLY

That Council:

- (a) Notes that prior to consideration of this report special disclosure of pecuniary interest forms for the Councillors present have been tabled as required under Section 451 of the *Local Government Act 1993*.
- (b) Endorse the 'Planning Proposals' for the proposed housekeeping amendments to the *Leichhardt Local Environmental Plan 2013*, made in accordance with the Gateway plan-making process of the *Environmental Planning and Assessment Act 1979* for making the changes, namely:
 - i. Amendments to Schedule 1 Additional Permitted Uses to address issues associated with the use of the group term commercial premises;
 - ii. Amendments to Schedule 5 Environmental Heritage as a consequence of the Heritage Inventory Sheets Review;
 - iii. Heritage Listing of 79 Allen Street, Leichhardt;
 - iv. Inclusion of clause relating to Sex Service Premises by the Department of Planning and Infrastructure; and
 - v. Amendments to the land use table for Zones B1 Neighbourhood Centre and B2 Local Centre to permit all types of residential accommodation and inclusion of a new clause *Residential Accommodation in Zones B1 Neighbourhood Centre and B2 Local Centre* to accompany.
- (c) Forward the Planning Proposals to the Minister for Planning and Infrastructure requesting a Gateway Determination in accordance with section 56 of the *Environmental Planning and Assessment Act 1979* and request Written Authorisation to Exercise Delegation (the Authorisation) from the Minister (or his delegate) of plan making functions in respect of making the housekeeping amendments to the *Leichhardt Local Environmental Plan 2013* outlined in the Planning Proposals.
- (d) If approved by the Minister (or delegate); proceed with public exhibition of the Planning Proposals in accordance with the Gateway Determination and community engagement plan outlined in this report.

CARRIED UNANIMOUSLY

Item 7 : Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Leichhardt
Name of draft LEP: Housekeeping Amendments to Leichhardt LEP 2013 (5 attached Planning Proposals)
Address of land (if applicable): Item 1: Land at Buchanan and Reynolds Streets, Balmain (Lots 85–93 and 126–145, SP 65243); Land at Rosebery Place, Balmain (Lots 1–3, SP 60159, Lots 5–9, SP 62009 and Lots 1–20, SP 60158) and Land at Terry Street, Rozelle (Lots 84 and 85, SP 72790 and Lot 1, SP 58291). Item 2: 86 Johnston Street, Annandale; 39 Trafalgar Street, Annandale; 2 Broderick Street, Balmain; 95 Mort Street, Balmain; 71A & 71B Reynolds Street, Balmain; 4 Gilchrist Place, Balmain East; 24 Pearson Street, Balmain East; 160-180 Balmain Road, Leichhardt; 134 James Street, Lilyfield. Item 3: 79 Allen Street, Leichhardt.
Intent of draft LEP: To address issues that arose during the making of LEP 2013
Additional Supporting Points/Information: All the supporting information required for exhibition is provided in the Planning Proposals.

Evaluation criteria for the issuing of an Authorisation				
(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			

Evaluation criteria for the Issuing of an Authorisation				
(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	Y *			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N**			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	See note***			
Reclassifications				
Is there an associated spot rezoning with the reclassification?		Y		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		Y		
Is the planning proposal proposed to rectify an anomaly in a classification?		Y		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		Y		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		Y		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		Y		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		Y		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		Y		
Spot Rezonings				
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		Y		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		Y		
Will the planning proposal deal with a previously deferred		Y		

Evaluation criteria for the issuing of an Authorisation				
(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?				
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		Y		
Does the planning proposal create an exception to a mapped development standard?		Y		
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N			
NOTES - Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. - Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.				

*NSW Heritage Office Manual provided framework for Item 3 attached Godden Mackay Logan heritage significance assessments.

**Heritage Office to be consulted.

***Item 3 does not impact an item of State Heritage Significance and for Item 2 Council's Heritage Inventory took adjacent items of State Heritage Significance into account

