

ATTACHMENT 1

PLANNING PROPOSAL FOR 100-102 ELLIOTT STREET, BALMAIN

INTRODUCTION

This Planning Proposal (The Proposal) has been prepared by Council to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan (LEP) 2013 to enable the rezoning of 100-102 Elliott Street, Balmain.

The site is currently zoned Local Centre (B2) which permits a range of uses focussed on providing commercial/business space and includes provisions for mixed use developments incorporating residential dwellings in accordance with Clause 6.11A of Leichhardt LEP 2013. This clause does not permit residential accommodation unless the building comprises mixed use development and an active street frontage.

The site has an existing approval for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial/retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above (D/2013/406).

Council held discussions with the new owner of the site, Toga Group, in July 2015 regarding the operation of serviced apartments at the site and that their scale and format was not considered to be commercially viable. Toga indicated to Council that it would be lodging a Planning Proposal to request a rezoning of the site to allow the nineteen (19) serviced apartments approved to be converted to residential dwellings.

A Planning Proposal was received by Council in November 2015 requesting Council support the rezoning of the whole site from Local Centre (B2) to General Residential (R1).

An assessment of the Proponent's Planning Proposal resulted in Council supporting the proposed conversion of serviced apartments to residential dwellings to provide additional housing within Leichhardt Council area. A re-zoning of the entire site to R1 was not supported due to the potential unintended consequence of loss of employment lands and job opportunities on the site.

To both preserve the employment generating land on site and achieve the intended outcome of the Proponent's Planning Proposal Council endorsed a revised Planning Proposal recommending that various parts of the current site be rezoned to better reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

The purpose of this Proposal is therefore to amend Leichhardt LEP 2013 to enable the rezoning of parts of 100-102 Elliott Street, Balmain to General Residential (R1), Business Park (B7), Public Recreation (RE1) with the Local Centre (B2) zoning retained on the rest of the site.

The approved gross floor area (GFA) and floor space ratio (FSR) for the site under D/2013/406 will remain unchanged as a result of this Proposal.

The proposed rezoning is justified for the following reasons:

- It is consistent with housing provision on site and the greater Council area by complying with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011 and relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.
- It is consistent with the retention of commercial uses/employment generating land uses on site and the greater Council area by complying with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023, Leichhardt Employment Lands Study January 2011 and relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.
- It will enable the various parts of 100-102 Elliott Street, Balmain to be rezoned to best reflect the land uses approved on site and ensure consistency with the aims, objectives and planning controls applicable to those zones.
- The proposed zoning will not have any detrimental amenity impacts upon the surrounding residential area.
- It would enable Toga Group to convert the approved serviced apartments to residential apartments at a future development application stage.

Council resolved to forward this Planning Proposal to the Department of Planning and Environment (DP&E) for an LEP Gateway Determination in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act) to prepare the necessary LEP amendment.

Background

Site Description

The site is located at 100-102 Elliott Street, Balmain and comprises two lots, Lot 6, DP 617944 and Lot 1, DP 619996. It has frontages of 151 metres to Iron Cove (west), 199 metres to Elliott Street (north) and 62 metres to Broderick Street (south), with an extension of this boundary along an adjoining property down to the foreshore of a further 84m. The site is 12,375m² in area and has a moderate slope from 17m above mean sea level in the eastern corner of the site to approximately 2m above mean sea level at the sandstone retaining wall at the edge of the Parramatta River.

Figure 1: Land that is subject of the Planning Proposal with an aerial photo of the site

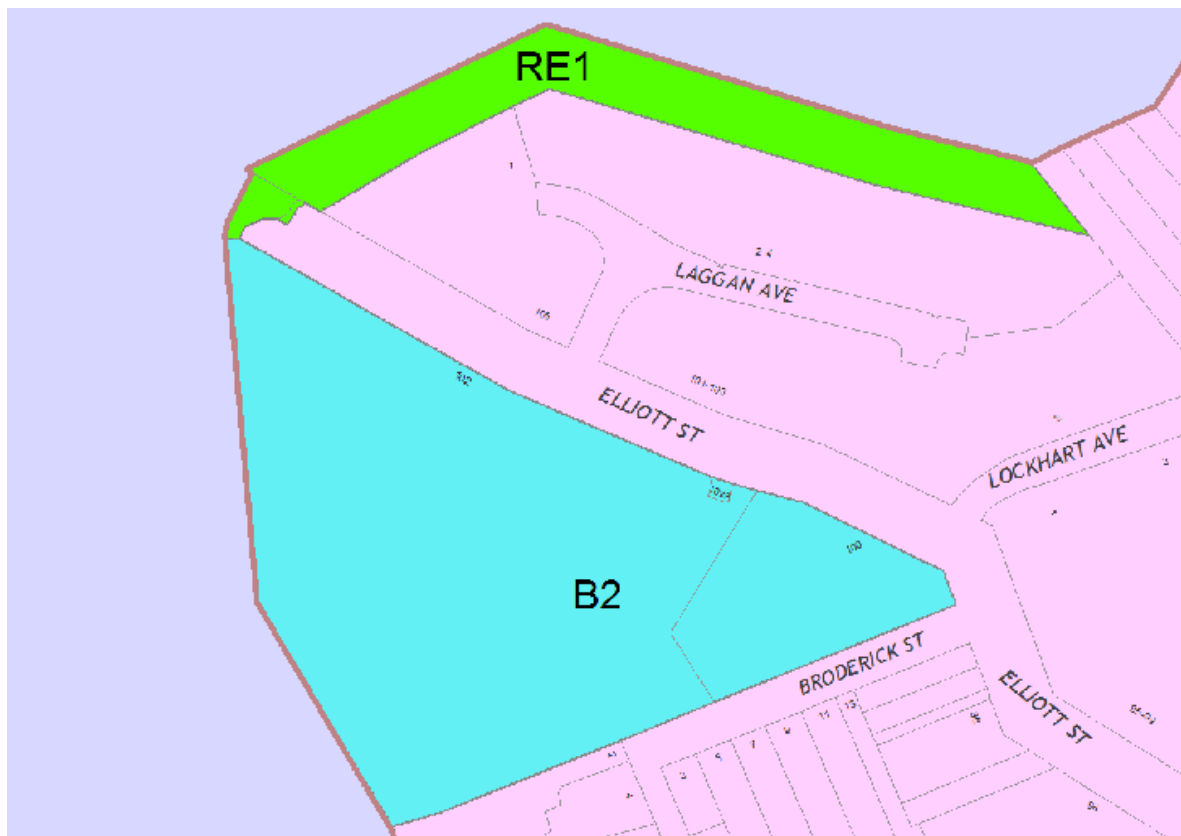


History

The site's previous use was by Nutri-Metics, a cosmetics company. Existing on the site at the time was a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated.

The subject site is zoned B2 Local Centre under Leichhardt Local Environmental Plan 2013 (LLEP2013) and surrounded principally by residential zoned land under LLEP 2013 (R1 General Residential). There is a small connection to land zoned for open space under LLEP 2013 (RE1 Public Recreation) which adjoins the ferry wharf and the open space between Parramatta River and the Housing NSW flat buildings on the northern side of Elliott Street.

Figure 2: Current zoning of site under existing development consent.



The site is located within the Iron Cove Heritage Conservation Area (C6) listed in Schedule 5 of Leichhardt LEP 2013.

The site is located in the Birchgrove / Elkington Park Distinctive Neighbourhood as prescribed under the Leichhardt Development Control Plan 2013.

In August 2014, Toga Developments Pty Ltd purchased the site from Roche Group.

The site is currently undergoing construction according to the conditions of development consent D/2013/406.

Development Application D/2011/529

Development application D/2011/529 was lodged on 4 October 2011, proposing demolition of existing structures, construction of a mixed use development including 6 buildings with commercial / retail uses and gym, 112 residential units above, basement parking for 217 vehicles, and associated works, including landscaping and removal of trees, bulk earthworks and remediation.

The application was reported to the Joint Regional Planning Panel (JRRP) on 21 March 2012, and was refused.

A Class 1 appeal to the Land and Environment Court of NSW was filed on 4 May 2012, Case Number 10430 of 2012. The appeal was dismissed by the Land and Environment Court NSW on 19 December 2012.

Development Application D/2013/406

The application was lodged on 18 September 2013. Council officers held a public information evening on 6 November 2013 to outline the Proposal.

Development consent was sought for the following works:

- demolition of existing commercial and warehouse buildings and associated structures;
- bulk earthworks / excavation / remediation of the site;
- mixed use development consisting of eight (8) new buildings ranging between 3-5 storeys comprising the following gross floor areas (as defined by Leichhardt Local Environment Plan 2000):
 - 2,763sqm of non-residential floor space comprising 749sqm of commercial floor space, 160sqm of retail space, a 65sqm gym for use of residents of the development and 1,789sqm of serviced apartments.
 - Approximately 8,635sqm of residential floor space comprising 102 dwellings.
- basement car parking; and
- on-site landscaping, open space and foreshore works including additional 2,160sqm of dedicated foreshore public open space.

The eight buildings were identified on the plans as buildings A1, A2, B1, B2, C1, C2, C3 and C4 (see Figure 3 below) and the nominated proposed uses of these buildings are as follows as per the submitted floor plans:

- Building A1 – 4 storeys – retail use at lowest level with residential dwellings above;
- Building A2 – 3 storeys – commercial use at lowest level with residential dwellings above;
- Building B1 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building B2 – 4 storeys – commercial use at lowest level with residential dwellings above;
- Building C1 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C2 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C3 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C4 – part 3, part 4 storeys – serviced apartments at lowest level with residential dwellings above.

Figure 3: Current site and building plan for D/2013/406



Council corresponded with the applicant highlighting issues to be addressed during the assessment of the application. The applicant responded by lodging legal advice to Council on 20 November 2013. Council subsequently had the legal advice reviewed and separate legal advice was provided on 10 December 2013. The conclusion was that the serviced apartments and ground floor uses were permissible in the zone.

The applicant lodged amended plans and documentation addressing the issues raised above and the amended plans and documentation were re-notified from 25 February 2014 to 26 March 2014.

The application was reported to the Joint Regional Planning Panel on 15 May 2014, and was approved subject to a revised set of conditions.

The final approval was for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial / retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above.

Economic / Employment uses on-site

The development application was supported by an Economic Report, prepared by SGS Economics & Planning, as part of the application. The report provided a market

assessment for the proposed residential, retail, commercial and serviced apartment uses and justification for the financial viability of the proposed development.

With regard to economic activity and employment it was noted that the previous business on-site, Nutri-Metics, was not operating at full capacity, not utilising all the buildings to their full extent and that their current layout was very business specific and unsuitable for many other business purposes.

The Economic Report anticipated that the proposed development would create 49 jobs in the retail and commercial space as well as in maintenance and cleaning of the serviced apartments.

The Assessment report to the JRRP stated that the site was not in close proximity to the existing commercial centres on Darling Street in Balmain and Rozelle and that the proposed commercial uses were not expected to compete with these centres as likely businesses were not expected to rely on passing trade.

Potential amenity conflicts from the proposed ground floor live/work commercial uses on Broderick Street were assessed as part of the application. It was not considered that there would be any significant amenity impacts on existing dwellings in Broderick Street given that the retail and commercial uses in buildings A1 and A2 would be accessed through the development rather than from Broderick Street. The sizes of the proposed tenancies are also small so they are not considered to result in any significant impacts.

Given that the site was zoned Business and surrounded by sites zoned Residential the proposal was considered satisfactory with regard to economic impacts.

Proponent's Planning Proposal

A meeting was held at Leichhardt Council on 15 July 2015 at the request of the owners of the site Toga Group. The meeting was to discuss potential land use changes or rezoning of the site to support the conversion of serviced apartments to residential apartments, with the expectation that the preparation and lodging of a future Planning Proposal would occur to allow for the land use change to take place.

Council officers followed up on the discussions at the meeting with Toga / RPS on 6 August with a list of issues and relevant background and supporting studies that would be required for any potential planning proposal advocating land use changes or rezoning of the subject site to enable Council to determine any socio-economic, built form, car-parking and traffic impacts. These included the following:

- details of any changes which would affect the D/2013/406 consent and any subsequent modifications;
- any changes which differ from the recommendations and actions included in supporting documentation/studies/reports provided to Council as part of the D/2013/406 application;
- justification for any changes not in keeping with the recommendations and intent of the Leichhardt Employment Lands Study (2011);

- justification for the loss of any commercial/employment land and floor space, both on-site and for Leichhardt LGA;
- any changes to car parking provision and resulting traffic movements; and
- compliance with SEPP 65 (Design Quality of Residential Flat Development) and all Council policies and controls relating to residential dwelling amenity.

The Proponent's Planning Proposal was lodged with Council on 5 November 2015. It has been prepared by RPS on behalf of Toga to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan 2013 to enable the rezoning of 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1).

The stated objective of the Proposal was to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage. The desired outcome is that the proposed LEP amendment will allow for a future development application modification to convert the approved nineteen (19) serviced apartments under D/2013/406 to residential dwellings.

Council Assessment

Council supports the proposed conversion of serviced apartments to residential dwellings to provide additional housing within Leichhardt Council area.

Re-zoning the entire site to R1 as preferred by the applicant however could have an unintended consequence in relation to the long term retention of employment lands on the site. While the R1 zone does not prohibit all commercial premises, the zone objectives focus on housing needs and provision. If imposed across the entire site a development application could be lodged to convert some or all of the commercial space approved as part of the current development consent to residential uses. With an R1 zoning Council would have no planning mechanism to protect business floorspace.

Therefore the applicant's preferred option is not supported and Council has endorsed an alternative option that will in the longer term retain employment uses on the site.

To both preserve the employment generating land and achieve the intended outcome of the Proponent's Planning Proposal it is recommended that various parts of the current site be rezoned to reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

To achieve this it is recommended that a revised Planning Proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway Determination that will

provide housing and protect local employment generating land. It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) and with the Local Centre (B2) zoning retained on the rest of the site.

Part 1 – Objective or Intended Outcome

The objective of this Proposal is to amend Leichhardt LEP 2013 to rezone parts of the land at 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1), Business Park (B7), Public Recreation (RE1) with Local Centre (B2) zoning retained on the rest of the site.

The intended outcome of the proposed LEP amendment is to allow the conversion of the approved serviced apartments to provide additional residential dwellings and preserve the employment generating land endorsed by Council as part of D/2013/406 to be consistent with Council's long term strategic plans.

The future conversion would not require reconfiguration of the approved serviced apartments and will not change the building envelopes or height of the approved development. The number of car parking spaces attributed to serviced apartments would now be attributed to the residential apartments. The approved gross floor area (GFA) and floor space ratio (FSR) of the site under D/2013/406 will remain unchanged as a result of this Proposal.

A 'change of use' development application will be required to facilitate the conversion of the serviced apartments land use to residential dwellings.

Part 2 – Explanation of Provisions

The provisions to be included in the proposed LEP are outlined below, in accordance with Section 55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Leichhardt Local Environmental Plan 2013

Name of Plan

This Plan is Leichhardt Local Environmental Plan 2013 (Amendment No.TBC).

Aims of the Plan

This Plan aims to amend the Leichhardt Local Environmental Plan 2013 as follows:

- Amend Leichhardt LEP 2013 Land Zoning Map Sheet LZN_006 in accordance with the proposed zoning map shown in Part 4 of this Proposal.*

Land to which Plan applies

This Plan applies to 100-102 Elliott Street, Balmain being Lot 6, DP 617944 and Lot 1, DP 619996.

Part 3 – Justification

Section A – Need for the planning proposal

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

Previous studies/strategies conducted by Council are relevant to the subject site and the commercial zoning/land use of the site, such as the Employment and Economic Development Plan 2013-2023 and Employment Lands Study 2011 and are discussed under question 4 (Q4).

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

The current Local Centre (B2) zoning for the site does not permit residential accommodation unless the buildings comprise a mixed use development and have an active street frontage. To allow the conversion of the serviced apartments approved as part of the D/2013/406 development consent to residential dwellings amending the zoning of the site under Leichhardt LEP 2013 is considered the best means of achieving the objectives and intended outcome set out in Part 1 above.

To ensure the commercial uses approved as part of the D/2013/406 consent are retained and employment generating lands in Leichhardt Municipality are not further reduced an amendment of the zoning of the site under Leichhardt LEP 2013 is required.

Section B – Relationship to strategic planning framework

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

A Plan for Growing Sydney

The Planning Proposal is consistent with A Plan for Growing Sydney as it facilitates the provision of additional homes and jobs within the Sydney Metropolitan area. The key priorities are addressed in the table below.

Direction	Applicable	Comment
Goal 1 – A competitive economy		

1.1 Grow a more internationally competitive Sydney CBD	N/A	The site is not part of the Sydney CBD.
1.2 Grow Greater Parramatta – Sydney's second CBD	N/A	The site is not part of the Parramatta CBD.
1.3 Establish a new Priority Growth Area	N/A	The site is not part of the new Priority Growth Area between Olympic Park and Parramatta.
1.4 Transform the productivity of Western Sydney	N/A	The site is not within Western Sydney.
1.5 Enhance capacity at Sydney's gateways and freight networks	N/A	The site is not a gateway site or part of a freight network.
1.6 Expand the Global Economic Corridor	N/A	The site is not part of the Global Economic Corridor.
1.7 Grow strategic centres	N/A	The site is not defined as a strategic centre.
1.8 Enhance linkages to regional NSW	N/A	The site is not located on existing or proposed regional connection corridors.
1.9 Support priority economic sectors	N/A	The site is not identified as a key precinct and not zoned or recommended to be zoned for industrial purposes.
1.10 Plan for education and health services	N/A	The site is not proposed to include educational or health facilities.
1.11 Deliver infrastructure	N/A	The Proposal does not include infrastructure provision.
Goal 2 - A city of housing choice		
2.1 Accelerate housing supply across Sydney	Yes	The Proposal is consistent with this direction. It will increase the number of residential apartments on the land which it is located.
2.2 Accelerate urban renewal across Sydney	Yes	The Proposal will facilitate urban renewal on a site within an established urban area incorporating a number of uses on the site.
2.3 Improve housing choice	Yes	The Proposal is consistent with this direction. The part rezoning to R1 General Residential will provide increased housing choice.
2.4 Deliver timely and well planned greenfield precincts and housing	N/A	The site is not located within the North West and South West Growth Centres.
Goal 3 - A great place to live		
3.1 Revitalise existing suburbs	Yes	The Proposal will assist in the

		revitalisation of Balmain through allowing additional residential dwellings and commercial uses on site which are compatible with the surrounding residential uses and current zoning.
3.2 Create a network of open and green spaces across Sydney	Yes	Waterfront land on the subject site is to be dedicated to Leichhardt Council for public open space under D/2013/406. This will increase the open space available to local residents and Leichhardt Municipality.
3.3 Create healthy built environments	Yes	The Proposed rezoning will create a mixed use site and the foreshore land to be dedicated to Council will provide additional open spaces for both passive and active recreational uses.
3.4 Promote Sydney's heritage, arts and culture	N/A	The Proposal will not impact on the heritage value of the surrounding area. There is no proposed change to the existing approved built form on the site.
Goal 4 - A sustainable and resilient city		
4.1 Protect our natural environment	N/A	The Proposal aims to rezone land to reflect development already approved on site. The assessment of D/2013/406 by both Council and the JRPP took into consideration relevant environmental considerations.
4.2 Build Sydney's resilience to natural hazards	N/A	
4.3 Manage the impacts of development on the environment	N/A	
Sydney's Subregions		
Priorities for Central Subregion	Yes	This subregion includes the Global Economic Corridor, additional housing and flexible commercial uses on the site will result in positive liveability outcomes for the suburb of Balmain. Council's economic and employment generating lands studies show that retaining commercial uses and job provision on site is important not only for the local area but the wider Council area.

Draft Inner West Subregional Strategy

The Planning Proposal is consistent with the Draft Inner West Subregional Strategy as it facilitates the provision of additional homes and jobs within the Sydney Metropolitan area. The key priorities are addressed in the table below.

Direction	Action	Comment
B. Centres and Corridors		
B2. Increase densities in centres whilst improving liveability	B2.1 Plan for housing in centres consistent with their employment role.	The Proposal is consistent with providing increased housing density while not undermining the identified employment needs of Leichhardt local government area.
B4. Concentrate activities near public transport	B4.2 Support centres with transport infrastructure and services.	The site has good access to public transport infrastructure and services and is considered acceptable for this development.
	B4.2.1 NSW Government and Inner West Councils to undertake land use and transport planning studies to ensure that opportunities to benefit from transport infrastructure investment are realised.	The Proposal supports patronage on public transport given its proximity to existing services.
C. Housing		
C1. Ensure adequate supply of land and sites for residential development	C1.3 Plan for increased housing capacity targets in existing areas.	The Draft Strategy sets a target for an additional 30,000 dwellings within the Inner West Subregion, including 2,000 extra dwellings within the Leichhardt LGA. The Proposal will assist Leichhardt Council in meeting these targets by increasing dwelling numbers.
	C1.3.1 Inner West Councils to plan for sufficient zoned land to accommodate their local government area housing targets through their Principal LEPs.	
C2. Plan for a housing mix near jobs, transport and services	C2.1 Focus residential development around Centres, Town Centres, Villages and Neighbourhood Centres.	The Proposal will allow for an additional 19 residential apartments close to Balmain town centre. This will assist in achieving State Government priorities.
	C2.1.1 Inner West councils to ensure the location of new dwellings maintain the subregion's performance against the target for the State	The site supports commute times of less than 30 minutes. Bus services to the Sydney CBD are less than half an hour.

	Plan Priority E5. Priority E5 of the State Plan aims to increase the proportion of people living within 30 minutes by public transport of a Strategic Centre.	
	C2.3 Provide a mix of housing.	The Proposal aims to increase housing density in an accessible location.
C3. Renew Local Centres	C3.1 Renew local centres to improve economic viability and amenity	The Proposal aims to renew existing business zoned land with a mix of residential and commercial uses consistent with the character of the local area while maintaining employment generating lands in the local area.
C4. Improve the affordability of Housing	C4.3 Use planning mechanisms to provide affordable housing.	The Proposal will increase residential dwelling provision in the local area where demand is high.
C5. Improve the quality of new development and urban renewal	C5.1 Improve the design quality of new development.	The Proposal will facilitate a mixed use development that provides additional residential dwellings and protects employment generating land and local job opportunities.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Proposal is consistent with Council strategies and studies as summarised below.

Leichhardt Local Environmental Plan 2013

The environmental planning instrument applying to the site is the *Leichhardt LEP 2013*.

Any future development within Leichhardt LGA is to be consistent with and give consideration to the aims and objectives of the Plan and the relevant zone.

The most relevant aims of Leichhardt LEP 2013 that apply to this Proposal are as follows:

- (b) *to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,*

- (e) *to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*
- (f) *to maintain and enhance Leichhardt's urban environment,*
- (g) *to ensure that land use zones are appropriately located to maximise access to sustainable transport, community services, employment and economic opportunities, public open space, recreation facilities and the waterfront,*
- (i) *to provide for development that promotes road safety for all users, walkable neighbourhoods and accessibility, reduces car dependency and increases the use of active transport through walking, cycling and the use of public transport,*
- (j) *to ensure an adequate supply of land and housing to facilitate:*
 - (i) *employment and economic opportunities, and*
 - (ii) *the provision of goods and services that meet the needs of the local and subregional population,*
- (r) *to promote the health and well-being of residents, business operators, workers and visitors,*

The proposed LEP amendment is consistent in addressing the aims of the Leichhardt LEP 2013 as follows:

- It aims to preserve the commercially zoned, employment generating land consistent with Council's long term strategic plans.
- It aims to provide additional housing in Leichhardt LGA to meet market demand and comply with dwelling target obligations imposed by the State Government.
- It aims to provide additional public open space and recreational land within Leichhardt Municipality.

Under *Leichhardt LEP 2013*, the site is zoned B2 Local Centre. The objectives of the zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that development is appropriately designed to minimise amenity impacts.*
- *To allow appropriate residential uses to support the vitality of local centres.*
- *To provide a mixture of compatible land uses.*
- *To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.*
- *To integrate suitable business, office, residential and other development in accessible locations.*

Retention of commercial uses/employment generating land uses on site is required by various Council strategies including Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011.

In formulating the Proposal with regard to retention of employment lands the intention is to zone the relevant parts of the site to best ensure the most appropriate land uses approved as part of D/2013/406 are protected. As part of that development approval Building A2 (**see Figure 3**) provides nine (9) live-work terraces. Each live-work terrace contains a ground floor commercial space internally linked to residential uses above. This built form and land use is specifically designed to assist in the revitalisation of employment areas and to provide a transition between adjoining land use zones. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of the nine (9) live-work terraces in Building A2 is Zone B7 Business Park.

As part of the development approval D/2013/406 Buildings A1 and B2 (**see Figure 3**) are to provide a mix of commercial space and residential dwellings with an active street frontage as required by Clause 6.11A (Residential accommodation in Zone B1 and Zone B2) in Leichhardt LEP 2013. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflects the future use of the mixed use development in Buildings A1 and B2 is Zone B2 Local Centre.

Other land uses on site are to be facilitated and protected by allocating them the most appropriate zoning available under LEP 2013.

Conversion of the nineteen serviced apartments to residential dwellings will provide additional housing in the Balmain area. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of residential dwellings for Building B1 and Buildings C1-C4 (**see Figure 3**) is General Residential (R1).

As part of development application D/2013/406 approximately 2160sqm of foreshore land (**see Figure 3**) will be rehabilitated and dedicated to Council for use as public open space. This dedication has been imposed using Section 94 of the Environmental Planning and Assessment Act 1979 and the Leichhardt Open Space Recreation Contributions Plan after Council identified that the development will increase the demand for local and district open space within the area. Currently this land, like the entire site, is zoned Local Centre (B2) for commercial purposes. This zoning is inconsistent with the proposed land use for that portion of the site. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of public open space for the foreshore land to be dedicated to Council is Zone RE1 Public Recreation. This zoning would better

integrate the site into the surrounding area, providing greater certainty for both existing and future landowners, tenants, local business owners and workers.

It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) with the Local Centre (B2) zoning retained on the rest of the site to ensure Council's aims, objectives and strategies for the site are best implemented.

Leichhardt 2025+

The Proposal is consistent with the goals and objectives of the key six service areas with the Plan.

Key Service Area	Applicable	Comment
Social		
Community well-being	Yes	The Proposal will contribute to community well-being by enhancing community cohesion whilst ensuring increased safety and security for future residents of the development.
Accessibility	Yes	The approved development will improve public accessibility to the Iron Cove foreshore through providing increased housing and public through site links. The site is located in an area well serviced by public transport and within close proximity to essential services.
Environment		
Place where we live and work	Yes	The Proposal will allow for the provision of new housing choices and an appropriate level of employment uses within the site and in close proximity to Balmain Town Centre and Sydney CBD.
A sustainable environment	Yes	The Proposal does not seek to change the building envelopes or the height of the approved development. The owner of the site has not requested any changes to the built form approved as part of D/2013/406 and given

		and stated to both Council and local landowners that this will not be pursued.
Economic		
Business in the community	Yes	The Proposal seeks to retain commercial and retail strata tenancies on the subject site. The scale of the proposal would be unlikely to directly compete with Darling Street.
Civic Leadership		
Sustainable services and assets	Yes	The site is located in close proximity to existing services and infrastructure. The Proposal will not result in additional demand for services on the site.

Leichhardt Community and Cultural Plan 2011-2021

The Proposal's stated objective and intended outcome will address the issues contained within the Community and Cultural Plan.

The Plan's objectives would be addressed by a split rezoning for the site, achieving many of the goals contained in Council's strategic plans such as reducing journey to work distance and commutes, potential creation of local creative industries which contribute to a more sustainable and a more cohesive local community.

Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023

The rezoning of part of the site to Business Park (B7) and retaining Local Centre (B2) zoning in appropriate locations means that all the employment generating land on site will be protected and retained.

The retention of business zoned employment land will make it possible for Council to implement the objectives of the EEDP, particularly Objective 3 'Embracing the New Economy' with regard to small businesses and start-ups, potential growth and clustering of creative industries and limiting further loss of employment generating lands in Leichhardt Municipality.

Leichhardt Employment Lands Study January 2011

The rezoning of part of the site to Business Park (B7) and retaining Local Centre (B2) zoning in appropriate locations means that all the employment land on site will be protected and retained.

The study recommends the site remain as commercially zoned, employment generating land. The Proposal's recommendation to retain land for employment use and satisfy the objectives of the zones to focus on business uses and jobs provision will comply with the study.

Any change to the business zoning of parts of the site could lead to the potential loss of 49 jobs on the site, having a negative impact on Leichhardt's ability to meet job targets set by the State government and compound the loss of 50+ jobs on the site through the current development consent (D/2013/406).

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Proposal is consistent with the applicable State Environmental Planning Policies as summarised below.

SEPP Title	Applicable	Comment
SEPP No 32 Urban Consolidation (Redevelopment of Urban Land)	Yes	The Proposal to rezone the site to provide for additional residential dwellings would be consistent with the aims of the SEPP. The site is located within an established urban area, supported by public transport services and infrastructure.
SEPP No 55 Remediation of Land	Yes	The provisions of this SEPP have been considered in the preparation of this Proposal. The site is currently being developed as a mixed use development including residential land uses under D/2013/406 which involved remediation of the site.
SEPP No 65 Design Quality of Residential Apartment Development	Yes	The Proposal seeks to allow for additional residential dwellings on site. The current approved development consent D/2013/406 included an

		assessment of the development to ensure compliance with SEPP 65. Any future modification to an existing development consent or new development application will also be required to comply with the SEPP and Apartment Design Guide. An application (M/2015/215) seeking approval for the addition of five skylights and enlargement of five ground floor terraces is currently with Council for consideration. This will ensure that the future development achieves compliance with the ADG's desired solar rating and requirement for ground floor terrace areas.
SEPP (Building Sustainability Index: BASIX) 2004	Yes	The future development will be required to meet BASIX requirements.
SEPP (Infrastructure) 2007	Yes	Relevant clauses of the SEPP have been considered in the preparation of this Proposal, namely traffic-generating development and development likely to affect electricity transmission or distribution network. These matters are to be managed in accordance with the conditions of consent D/2013/406 and any future development consent. The Proposal will not introduce new uses or development to the site and is considered consistent with the SEPP.
Deemed SEPPs		
SREP (Sydney Harbour Catchment) 2005	Yes	The approved development is considered acceptable with regard to the provisions and matters for consideration of the SREP. The Proposal will not impact on the heritage significance of the Elliott Street Wharf structure. The Proposal will not result in a change to the building

		envelopes, heights or the appearance of the development therefore its appearance from Iron Cove will not change.
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Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Proposal is consistent with the relevant Section 117 Directions as summarised in the table below.

Direction	Requirement	Applicable	Comment
1. Employment and Resources			
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Yes	The Proposal’s objective and intended outcome is consistent with the Direction’s objectives and how it is applied. Rezoning the appropriate parts of the site Business Park (B7) and retaining Local Centre (B2) on appropriate parts will encourage employment growth and protect employment generating land. The proposal will retain business zoning on those parts with a commercial use to ensure employment generating lands are protected locally and in the wider Leichhardt Municipality.
	A planning proposal must: (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.	Yes	
2. Environment and Heritage			
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous	Yes	The site is not a heritage item but is located adjacent to locally listed heritage dwellings along Broderick Street, whilst on Elliott

	heritage significance.		Street, there is a landscape heritage item (tree) adjacent to the site. The site is also located within a heritage conservation area under <i>Leichhardt LEP 2013</i>. Elliott Street Wharf is listed as a heritage item as outlined in <i>SREP (Sydney Harbour Catchment) 2005</i>. The Proposal will not change the design, bulk or scale of the approved development and as such there would be no impact on the significance of nearby heritage items or the conservation area.
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	The objectives of this direction are to: (a) encourage a variety and choice of housing types to provide for existing and future housing needs, (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and, (c) minimise the impact of residential development on the environment and resource lands.	Yes	The Proposal seeks to rezone part of the site to R1 General Residential to allow for additional residential dwellings. This would permit the conversion of the 19 approved serviced apartments to residential apartments at a later DA stage. The approved development D/2013/406 will not have a negative impact upon the amenity of the residential areas in the vicinity of the site.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and	Yes	The Proposal aims to provide for a mixed use development and integrate various land uses across the site approved as part of D/2013/406. This shall include jobs within close proximity of housing choice further reducing journey to work times, travel demand and car dependency. The site is highly accessible to public transport with bus stops located within 400m of the site on Darling Street, providing frequent services to Balmain town centre, Central railway station, Sydney CBD and other areas.

	viable operation of public transport services, and (e) providing for the efficient movement of freight.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of the land that has a probability of containing acid sulphate soils.	Yes	The Proposal will not result in the disturbance of any soils.
4.3 Flood Prone Land	The objectives of this direction are to: (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Yes	A portion of the site is identified as a Flood Control Lot within <i>Leichhardt DCP 2013</i> . Stormwater issues throughout the site were resolved at the DA stage of D/2013/406.
6. Local Plan Making			
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes	Site specific controls are not proposed.
7. Metropolitan Planning			
7.1 Implementation of A Plan for Growing Sydney	The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	Yes	<i>A Plan for Growing Sydney</i> is applicable across the State and therefore applicable to the site. The Proposal will strive to achieve the vision and desired outcomes of the Plan by increasing housing supply, increasing job opportunities and ensuring the differing land uses are within close proximity while preserving the amenity of the local area.

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?*

There is no known critical habitat, threatened species, populations or ecological communities or their habitats located on the subject site.

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

The Proposal does not seek to increase or intensify the currently approved uses on the site or the amount of floor space that was approved. The approved development is considered acceptable by Council and the JRPP in mitigating any potential environmental effects.

Any future modification to the existing consent or new development application will be required to address any environmental effects proposed by the works.

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

The Proposal does not seek to increase or intensify the currently approved uses on the site or the amount of floor space that was approved. The approved development is considered acceptable by Council and the JRPP in mitigating any potential environmental effects.

The current development consent was found not to have significant amenity impacts upon the surrounding residential area.

The current Proposal aims to protect employment generating uses on the relevant parts of the site. This is considered to be an important element of the mixed use development given that the site is zoned Local Centre (B2) and has already seen 50+ jobs lost on the site through the current DA consent (D/2013/406).

Retention of commercial uses/employment generating land uses on site complies with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011.

Retention of commercial uses/employment generating land uses on site complies with relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.

Section D – State and Commonwealth interests

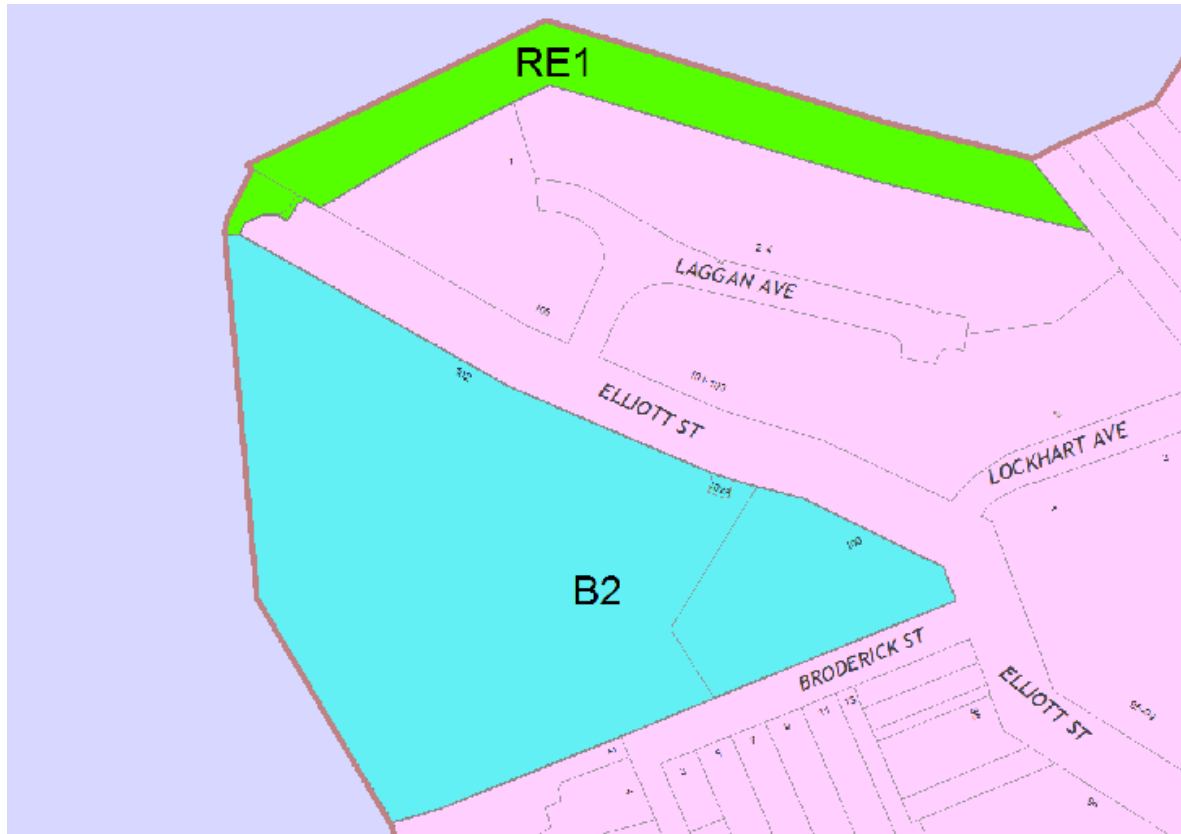
Q10. *Is there adequate public infrastructure for the planning proposal?*

The site is located in an area currently serviced by all necessary services and infrastructure facilities, including bus services to Balmain Town Centre and the Sydney CBD.

The Proposal does not seek to create additional demand on existing infrastructure. The Proposal will increase the open space available for public recreation through the foreshore land to be dedicated to Council through D/2013/406 to be rezoned to Public Recreation (RE1).

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

If necessary, both State and Commonwealth public authorities would be consulted by the Department of Planning and Environment at Gateway Determination. Any issues raised would be summarised and addressed as appropriate.



Proposed Controls

Figure 5 illustrates the proposed General Residential (R1), Business Park (B7), Public Recreation (RE1) of the subject site and the parts of the site to retain their Local Centre (B2) zoning.



Proposed LEP Zoning Map

	B2 Local Centre
	B7 Business Park
	R1 General Residential
	RE1 Public Recreation

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Consultation

Community consultation will be undertaken in accordance with the Department of Planning's '*A Guide to Preparing Local Environmental Plans*' and Council's Community Engagement Framework.

The Department's guide provides time frames for the exhibition of 'low impact proposals' and 'all other planning proposals' of 14 days and 28 days respectively.

The Director-General of Planning must approve the form of the planning proposal in accordance with Section 57(2) of the EP&A Act 1979. This is to ensure the proposal complies with the Gateway Determination before community consultation is undertaken.

Community consultation will include:

- Notification placed in local newspapers;
- Exhibition material provided at Leichhardt Council facilities; and
- The Planning Proposal made available on Council's and the Department of Planning's websites.

All landowners within close proximity of the site will be notified in writing by Council of the Proposal.

Project Timeline

Table below outlines a timeline for completion of the Proposal if approved for public exhibition at Gateway Determination, subject to Gateway requirements.

Project Timeline	Estimated Timeline
Estimated commencement date (date of Gateway Determination)	March 2016
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	28 days
Commencement and completion dates for public exhibition period	April 2016
Consideration of submissions	May 2016
Consideration of Proposal post-exhibition and reporting to Council	May-June 2016
Date of submission to DP&E to finalise amended LEP	June 2016
Anticipated date Relevant Planning Authority (RPA) will make the Plan (if delegated)	July 2016
Anticipated date RPA will forward Plan to DP&E for notification	July 2016

Conclusion

The Proponent's Planning Proposal to rezone the entire site from Local Centre (B2) zone to General Residential (R1) was not supported. While achieving the objective and intended outcome of the Proposal, allowing for a future modification to a DA consent to convert all nineteen (19) serviced apartments to residential dwellings, it could also result in all land specifically zoned for commercial purposes being lost. The unintended outcome could be the potential loss of some or all employment generating lands on site and the further loss of 49 potential jobs on a site currently zoned for business purposes with a development consent permitting business uses.

To both preserve the employment generating land and achieve the intended outcome of the Proponent's Planning Proposal it is recommended that various parts of the current site be rezoned to better reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

To achieve this Council submit this Planning Proposal to the Minister for Planning and Infrastructure for a Gateway Determination that will provide housing and protect local employment generating land. It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) and with the Local Centre (B2) zoning retained on the rest of the site.