

PLANNING PROPOSAL FOR 100-102 ELLIOTT STREET, BALMAIN

Division	Environment and Community Management
Author	Senior Strategic Planner
Meeting date	9 February 2016 Policy Meeting
Strategic Plan Key Service Area	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

SUMMARY AND ORGANISATIONAL IMPLICATIONS

Purpose of Report	<p>The purpose of this report is to inform Council of a Planning Proposal to amend Leichhardt Local Environmental Plan (LEP) 2013 to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). Whilst the applicants preferred option is not supported, an alternative option that will in the longer term retain employment uses on the site is supported. Endorsement of this alternative option is sought and for a revised planning proposal to be submitted to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to Business Park (B7), General Residential (R1) and Public Recreation (RE1).</p>
Background	<p>The site was previously used by Nutri-Metics, a cosmetics company, with a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated. The site was zoned Business under Leichhardt LEP 2000, translated into Local Centre (B2) zone as part of Leichhardt LEP 2013.</p> <p>A Planning Proposal was lodged with Council on 5 November 2015 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 is 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</p>

	under D/2013/406 to residential dwellings.
Current Status	The owner of 100-102 Elliott Street, Balmain has requested that Council prepare a Planning Proposal for an amendment to Leichhardt Local Environmental Plan 2013, which would rezone the site from Local Centre (B2) to General Residential (R1).
Relationship to existing policy	This report assesses the merits of the Planning Proposal against relevant Council and State policies. Leichhardt LEP 2013 Leichhardt 2025+ Leichhardt Community & Cultural Plan 2011-2021 Leichhardt Employment Lands Study (Jan 2011) Leichhardt Employment & Economic Development Plan 2013-2023 A Plan for Growing Sydney (Dec 2014) Draft Inner West Subregional Strategy (July 2008)
Financial and Resources Implications	The proponent has paid the fee to Council for the preparation of a Minor Amending Local Environmental Plan as required by Council's Fees & Charges Policy to cover the costs of processing the Planning Proposal.
Recommendation	That Council: <ol style="list-style-type: none"> 1. Receive and note this report and attachments; 2. Resolve not to support the request the subject of the Proponent's Planning Proposal to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1) for the following reasons: <ol style="list-style-type: none"> a) the rezoning would further reduce the supply of commercially zoned, employment generating lands in Leichhardt Municipality limiting potential employment opportunities and the ability to meet job targets. b) the Planning Proposal is inconsistent with s.117 Directions 1.1 Business and Industrial Zones and 7 Metropolitan Planning as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home. c) the Planning Proposal is inconsistent with A Plan for Growing

	<p>Sydney and the Draft Inner West Subregional Strategy as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.</p> <p>d) The Planning Proposal does not have merit when assessed against the economic and employment criteria included within Leichhardt 2025+, the Leichhardt Employment Lands Study and the Leichhardt Employment and Economic Development Plan 2013-2023.</p> <p>3. Resolve to forward Council's Planning Proposal (Attachment 2), an alternate option, to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to General Residential (R1), Business Park (B7), Public Recreation (RE1) while retaining Local Centre (B2) for the rest of the site to achieve the intended outcome of the proponent's Planning Proposal that is the subject of this report and protect employment generating lands in Leichhardt Municipality.</p>
Notifications	NIL
Attachments	<p>1. Planning Proposal prepared by RPS for 100-102 Elliott Street, Balmain.</p> <p>2. Council Planning Proposal for 100-102 Elliott Street, Balmain</p>

Purpose of Report

The purpose of this report is to inform Council of a Planning Proposal to amend Leichhardt Local Environmental Plan (LEP) 2013 to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). Whilst the applicants preferred option is not supported, an alternative option that will in the longer term retain employment uses on the site is supported. Endorsement of this alternative option is sought and for a revised planning proposal be submitted to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to Business Park (B7), General Residential (R1) and Public Recreation (RE1).

Recommendation

That Council:

1. Receive and note this report and attachments;
2. Resolve not to support the request the subject of the Proponent's Planning Proposal to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1) for the following reasons:
 - a) the rezoning would further reduce the supply of commercially zoned, employment generating lands in Leichhardt Municipality limiting potential employment opportunities and the ability to meet job targets.
 - b) the Planning Proposal is inconsistent with s.117 Directions 1.1 Business and Industrial Zones and 7 Metropolitan Planning as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.
 - c) the Planning Proposal is inconsistent with A Plan for Growing Sydney and the Draft Inner West Subregional Strategy as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.
 - d) The Planning Proposal does not have merit when assessed against the economic and employment criteria included within Leichhardt 2025+, the Leichhardt Employment Lands Study and the Leichhardt Employment and Economic Development Plan 2013-2023.
3. Resolve to forward Council's Planning Proposal (**Attachment 2**), an alternate option, to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to General Residential (R1), Business Park (B7), Public Recreation (RE1) while retaining Local Centre (B2) for the rest of the site to achieve the intended outcome of the proponent's Planning Proposal that is the subject of this report and protect employment generating lands in Leichhardt Municipality.

Background

The site was previously used by Nutri-Metics, a cosmetics company, with a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated. The site was zoned Business under Leichhardt LEP 2000, translated into Local Centre (B2) zone as part of Leichhardt LEP 2013.

A Planning Proposal was lodged with Council on 5 November 2015 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 is 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.

Report

1.0 History

The site's previous use was by Nutri-Metics, primarily 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.

A development application (D/2011/529) was lodged in 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 and basement parking for 217 vehicles. The application was reported to the Joint Regional Planning Panel (JRPP) in March 2012, and refused. An appeal to the Land and Environment Court of NSW was filed which was dismissed by the Court on 19 December 2012.

Development Application D/2013/406 was lodged in September 2013. A public information evening was held in November 2013 to outline the Proposal, which includes demolition of existing commercial and warehouse buildings and construction of a mixed use development including eight (8) new buildings ranging between 3-5 storeys consisting of 102 dwellings, 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, 1,789sqm of serviced apartments and basement car parking. On-site landscaping and foreshore works include an additional 2,160sqm of dedicated foreshore public open space. The

application was reported to the JRPP on 15 May 2014 and was approved subject to a revised set of conditions.

A meeting was held at Leichhardt Council in July 2015 between the new owners of the site and Council officers to discuss potential land use changes and/or rezonings of the site to support the conversion of serviced apartments to residential apartments.

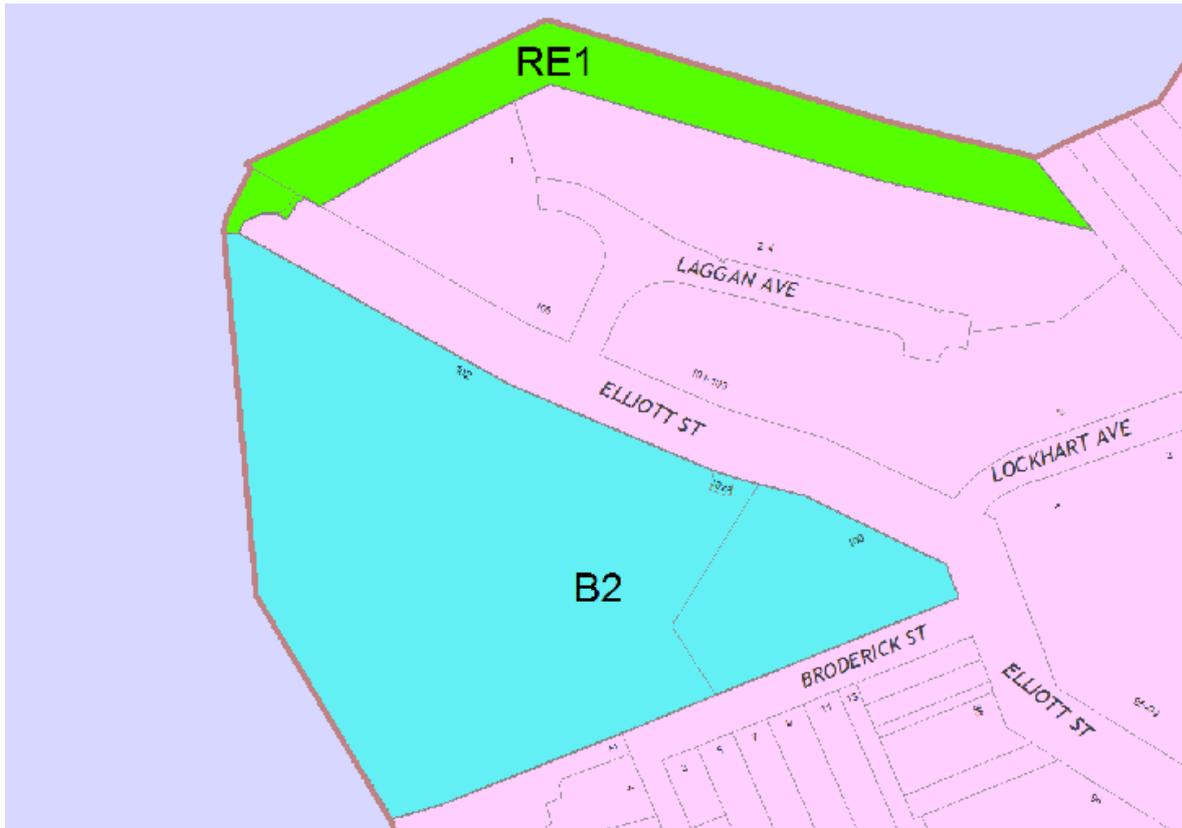
2.0 Site Description

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



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 and 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.

3.0 Development Applications

3.1 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.

3.2 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.

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.

4.0 Proponent's Planning Proposal

4.1 Pre-Planning Proposal meeting

Prior to the preparation and lodging of this Proposal a meeting was held at Leichhardt Council on 15 July 2015 at the request of Toga. Present at the meeting were Toga representatives, their consultants RPS and Council officers, who discussed potential land use changes or rezoning of the site to support the conversion of serviced apartments to residential apartments.

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.

4.2 Planning Proposal and related issues

The Planning Proposal (**Attachment 1**) 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 is 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.

Planning Proposal (PP) options to achieve objectives and intended outcome

- Option 1: Change zoning of the site to B4 Mixed Use to allow residential uses at the ground floor.
- Option 2: Change zoning of the site to R3 Medium Density Residential to allow residential uses at the ground floor of all buildings across the site.
- Option 3: Change zoning of the site to R1 General Residential to allow residential uses at the ground floor of all buildings across the site.
- Option 3 considered by the proponent to be the most suitable approach. It would be consistent with the surrounding R1 zoning and achieve the desired objectives and intended outcome of the Planning Proposal, allowing the serviced apartments land use to be converted to residential dwellings as part of a future modification to the existing DA approval.
- Option 4: Amend Schedule 1 of the LEP.
- Options 5: Amend the boundary of the R1 General Residential zone to include Buildings A2, B1 and C1-C4 on the site.

The Planning Proposal claims it is consistent with the NSW Planning Framework including the following:

- a Plan for Growing Sydney
- Draft Inner West Subregional Strategy
- applicable State Environmental Planning Policies (SEPPs)
- S117 Ministerial Directions (s117)

The Planning Proposal claims it is consistent with Leichhardt Council's Strategic policies including the following:

- Leichhardt 2025+
- Leichhardt Community and Cultural Plan 2011-2021
- Leichhardt Employment Lands Study (LELS) (January 2011)
- Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023

Key elements of Proponent's Supporting Case

Serviced apartments

Nineteen (19) serviced apartments were approved on the site as part of D/2013/406 and are the major component analysed

The Proposal argues that operating serviced apartments dispersed through multiple buildings on the site is not a commercial use but rather a short term residential use. It states that for serviced apartments to be considered a viable commercial use 50-70 apartments are required, this site falling very significantly short of that threshold to allow the business to run with the required financial return.

Estimated employment impacts of removing the serviced apartments land use are considered negligible as at this scale the operation would use a commercial model to run the serviced apartments component of the development which requires no full time employees.

Commercial zoning on the site

The Proposal highlights previous economic studies into the commercial zoning of the site and current development approval, including the report prepared by SGS lodged with D/2013/406 and Leichhardt's Employment Lands Study (LELS) 2011. The findings were that the residential markets was performing strongly in Leichhardt LGA and the Inner West subregion, the commercial market was stable and that while noted a broad undersupply of serviced apartments in the market, the focus of demand was Sydney CBD and larger local centres. The economic impact of the development on Balmain Town Centre was judged to have minimal impact due to its small scale and out of centre location. The LELS recommended the site be retained for employment uses.

The report refers to considerable market changes since the LELS was completed, such as broader supply in the market, potential development of The Bays Precinct, vacancy in Darling Street and an understanding of thresholds in the serviced apartment market. Broader commercial market dynamics are stated as playing a large role in the conversion of scattered and isolated commercial areas to residential uses, with reference made to the consolidation of floor space in large employment precincts and the potential influence of Barangaroo commercial space being made available to the market.

The Proposal identifies that the site falls within the Inner West (Metropolitan) Office sub-market, based on Knight Frank's Sydney Suburban Office Market Review (February 2015). The key market conditions outlined in the report for the inner west included that the market had steadily absorbed commercial floor space available,

there was a reduction in vacancy for commercial space, there had been an increase in rents payable to landlords and that there had been a reduction in floor space available for medium sized sites and an increase for smaller sites such as the subject site.

Summary of the site suitability for non-residential uses finds that the site is currently zoned as an isolated centre away from existing commercial and retail areas on Darling Street, is unlikely to attract attention due to its location and that local retail tenancies along Darling Street would suffer due to provision of additional space competing with and attracting potential demand away from the local centre.

Social Impacts

The Proposal emphasises that the serviced apartments, when operational, would have a potentially negative impact upon community cohesion, safety and security and the sense of place felt by both existing local residents and future residents of the development.

The transient nature of the 'guests' staying in the nineteen serviced apartments are noted as a major concern by those residents who have been involved and made a submission in response to Toga's community consultation.

Traffic and Parking Impacts

The traffic and parking assessment provided in support of the Planning Proposal considers that any traffic impacts of the proposed rezoning are likely to be similar to the approved development. It notes that any future development application on the site would require traffic impacts to be considered in accordance with Council's requirements.

Visual Impacts

The Proposal emphasise that any future DA would not require reconfiguration of the approved serviced apartments and would not require a change to the building envelopes, 'the look' or height of the approved mixed use development. A future 'change of use' DA would be required to facilitate the conversion to residential apartments.

Visual impacts are expected to be negligible or minor in nature and the development will appear the same as currently approved.

Community Consultation

A consultation workshop was held by Toga with local residents on 21 August 2015. Twelve (12) properties were issued with invites to the workshop, representatives of eight (8) attended. Council staff were not involved in the preparation of the workshop, had no involvement in conducting the workshop and were not present.

Thirteen (13) submissions were received by the sites owner, all supporting the conversion of the nineteen (19) serviced apartments to residential dwellings. Ten

(10) submissions supported the rezoning of the site to General Residential (R1) to achieve this objective, two (2) submissions supported the rezoning of the site to Mixed Use (B4) to achieve this objective and one (1) submission supported the conversion without any zoning preference being provided.

Ten (10) of the submissions received contain appear to be a standardised template with the same content. This content includes the following statement regarding floor space ration on the site:

'I also understand that Toga will be seeking to permit of a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the approved floor space ratio (FSR) for the site.'

One (1) of the other submissions states that support for the proposal is conditional on there being no increases to the approved built form and no increase in the FSR beyond that currently approved.

The Proposal does not propose to reconfigure the approved serviced apartments if they are rezoned for a residential use and states that there will be no changes to the existing built form or height of the approved development as part of any future development application. The Proposal does not seek the imposition of a site specific floor space ratio for the site.

There is a clear concern evident amongst local residents that serviced apartments are not in keeping with the residential nature of the adjoining streets.

None of the submissions raise specific concerns with regard to the other commercial tenancies on-site.

4.3 Assessment of Planning Proposal and related issues

The Planning Proposal Justification section as submitted by the Proponent sets out five (5) possible options to achieve the proponent's objective. However, the actual Proposal is to rezone the entire site from B2 to R1 (Option 3). Council assessment has been of that Proposal.

Planning Proposal (PP) options to achieve objectives and intended outcome

Rezoning the entire site to General Residential (R1), in accordance with the Proponents Planning Proposal would allow the serviced apartments approved under D/2013/406 to be converted to a residential use. However, re-zoning the entire site to R1 it could also 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. It is also noted that the land along the foreshore which is to be dedicated to Council for public recreation and pedestrian

access is likely to be rezoned to RE1 (Public Recreation) in a future LEP amendment so re-zoning to R1 now is inappropriate.

Relationship with NSW Planning Framework & Council's Planning policies

A Plan for Growing Sydney

The Proponent's Planning Proposal is consistent with the housing provisions of the Plan, however, it would compromise the employment provisions.

An unintended consequence of rezoning the entire site would be to create uncertainty regarding the long term retention of all employment lands on the site and all associated jobs. While the R1 zone does not prohibit all commercial premises the zone objectives focus is housing needs and provision. If the R1 zoning was imposed across the entire site there is a possibility that a future owner/applicant could lodge a development application 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 argue the retention of those commercial spaces potentially leading to the further loss of employment generating lands and reducing job prospects locally, inconsistent with all objectives of the Plan. Land zoned R1 is not designated commercial and employment land and the objectives of the zone do not focus on business uses and jobs provision. There is no requirement that R1 zoned land be used for employment purposes.

Draft Inner West Subregional Strategy

The Proponent's Proposal is consistent with the housing provision, transport and parks and open space directions and actions but fails to address the key direction on Economy and Employment Lands. The Strategy requires Council to restrict the rezoning of employment lands to residential zoning as much as possible and provide for an additional 500 jobs before 2031.

The economic impacts report prepared by SGS Economics & Planning in August 2013 for the proposed development on the site found that the Nutri-Metics operation had provided 103 jobs and the proposed development would result in a net loss of 54 jobs. The on-site job yield estimated for the current development consent was 49 jobs. If the Proposal's favoured option of rezoning the entire site to General Residential (R1) was implemented an unintended consequence of rezoning the entire site would be to create uncertainty regarding the long term retention of any employment on the site and potential loss of all jobs.

If approved a development application to convert the business floorspace left in the proposed R1 zone could lead to the loss of the potential to create these 49 jobs.

Applicable State Environmental Planning Policies (SEPPs)

The Proposal is considered acceptable with regard to SEPP requirements. Any non-compliance with SEPP 65 will need to be dealt with as part of the future development consent modification defined by the Proposal.

Ministerial Directions (s117)

- 1. Employment and Resources (Business and Industrial zones)*

The Proposal's objective and intended outcome is inconsistent with the Direction's objectives and how it is applied. Rezoning the entire site from Local Centre (B2) to General Residential (R1) will not encourage employment growth or protect employment land. The proposal will not retain areas of existing business zoning and will see a reduction in the total potential floor space for employment uses locally and in the wider Leichhardt Municipality. Land zoned R1 is not designated commercial and employment land and the objectives of the zone do not focus on business uses and jobs provision. There is no requirement that R1 zoned land be used for employment purposes.

2. Environment and Heritage

The Proposal is consistent with the Direction.

3. Housing, Infrastructure and Urban Development

The Proposal is consistent with the Direction.

4. Hazard and Risk

The Proposal is consistent with the Directions.

6. Local Plan Making

The Proposal is consistent with the Direction.

7. Metropolitan Planning (A Plan for Growing Sydney)

The Proponent's Planning Proposal is consistent with the housing provisions of the Plan however it would compromise the employment provisions.

Leichhardt 2025+

The Proposal satisfies the social, environment and civic leadership key service area goals and objectives. The Proposal does not adequately address the Economic key service area, 'Business in the Community'. Rezoning the entire site to General Residential R1 would have the unintended consequence of creating uncertainty regarding the long term retention of all employment lands on the site and all associated jobs.

Leichhardt Community and Cultural Plan 2011-2021

The Proposal's stated objective and intended outcome of rezoning the site to General Residential (R1) would address the issues contained within the Community and Cultural Plan.

The Plan's objectives would also 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, creation of local creative industries which contribute to a more sustainable, more cohesive local community.

Leichhardt Employment Lands Study (LELS) (January 2011)

The Proponent's Proposal does not comply with the study, which requires it to remain as commercially zoned, employment generating land. The Proposal's recommendation to rezone the entire site from Local Centre (B2) to R1 does not

retain land for employment use and the objectives of the zone do not focus on business uses and jobs provision. Home based employment is permitted within the General Residential zone provision of live-work space cannot be enforced. The potential loss of 49 jobs on the site would have a negative impact on Leichhardt's ability to meet job targets set by the State government and compound the loss of 50+ jobs already generated through the current development consent.

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

Rezoning the entire site from Local Centre (B2) to General Residential (R1) means that all the employment land on site could be lost. There is no requirement that R1 zoned land be retained or used for employment purposes. The loss of business zoned employment land would make it more difficult 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.

Issues raised by the Planning Proposal's Economic and Market Assessment

Serviced apartments

It is noted that although the land use 'serviced apartments' approved for parts of the site is a commercial use practical day-to-day operations of serviced apartment facilities may resemble a short term residential use, rather than a traditional commercial use. The Proponent's analysis indicates that 19 serviced apartments will not meet the commercial viability threshold of 50-70 serviced apartments.

The concerns raised by local residents as part of the Toga community consultation workshop on this Planning Proposal are consistent with those raised as part of the public notification process for D/2013/406. There is a concern that the serviced apartment land use and its operation will have a negative impact upon the local community. The resident's letters and their content are noted.

Conversion of the serviced apartments to residential dwellings will provide additional housing in the Balmain area. A rezoning to facilitate the land use change for the serviced apartments will comply with the relevant housing provision sections of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', S117 Ministerial Direction 3, 'Leichhardt 2025+' and Leichhardt's Community & Cultural Plan 2011-2021'.

The change of land use to be facilitated by an amendment to Leichhardt LEP 2013 to allow the nineteen (19) serviced apartments to be converted to residential dwellings is supported. It is recommended that Building B1 and Buildings C1-C4 be rezoned to General Residential (R1) to allow the conversion.

Commercial zoning on the site

The Proponent's Planning Proposal concludes that the suitability of the site for non-residential uses as an isolated centre away from existing commercial and retail areas on Darling Street, is unlikely to attract commercial intent due to its location and that local retail tenancies along Darling Street could suffer due to provision of additional space competing with and attracting potential demand away from the local centre.

This conclusion conflicts with the economic assessment undertaken by SGS for the previous owner of the site and submitted as part of DA/2013/406. The site is zoned Local Centre (B2) with applicable commercial objectives and various business land uses permitted. The SGS Economic report found that the proposed development would create 49 jobs for the retail and commercial space provided. The recommended conversion of the 19 serviced apartments to residential dwellings with new local residents is likely to provide additional patronage and clients for those businesses as well as the Darling Street businesses only 200 metres away.

The Business zoned site was the subject of a significantly more intensive business use for many years and any adverse impacts upon the surrounding residential dwellings attributed to the commercial spaces approved on-site is likely to be minor by comparison. The economic impact analysis found that there would not be significant amenity impacts on existing dwellings in Broderick Street since Buildings A1 and A2 have been designed to be accessed from within the development rather than from the public street. This includes separate entrances for retail and commercial uses, separate waste storage and separate parking as required by development consent conditions. The relatively small size of the tenancies were also considered to ensure that there would be no significant impacts upon existing local residents.

The SGS Economic report found the small size of the commercial tenancies would not detract from the function of business centres along Darling Street in Balmain and Rozelle and the scale of floorspace of proposed business would be appropriate for premises surrounded by residential dwellings. The proposed objective of the live-work tenancies in Building A2 is specifically to provide a transition between adjoining land uses and assist in the revitalisation of employment areas aimed at limiting amenity impacts.

The small scale offering of the commercial tenancies also means they are not offering a local product that wouldn't compete with large, flexible commercial floor templates in the Barangaroo development or any likely development of the Bays Precinct as claimed by the proponent.

The D/2013/406 reports conclusions and contributing studies were accepted by the Joint Regional Planning Panel (JRRP) as grounds for approval of the current development consent for the site.

From a provision of employment lands and job provision perspective the Proposal fails to comply with the relevant elements of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', various s117 Ministerial

Directions, 'Leichhardt 2025+', 'Leichhardt Employment Lands Study' and 'Leichhardt Employment and Economic Development Plan 2013-2023'.

The commercial space approved on-site continues to comply with the current Local Centre (B2) zoning objectives and land uses contained in Leichhardt LEP 2013.

Through the development approval D/2013/406 the site has already seen a reduction in 53 jobs. If the Planning Proposal's was to be implemented Leichhardt LGA could possibly see a further reduction of up to 49 potential jobs at a time when employment generating lands are under significant development pressures across the Municipality.

It is recommended that all commercial space in Buildings A1, A2 and B2 be retained, with Buildings A1 and B2 to continuing to be zoned B2 (Local Centre), Building A2 proposed to be rezoned Business Park (B7) to best reflect the land use endorsed by Council and be consistent with Council's strategic plans including the long term retention of employment lands.

Social Impacts

The Proponent's Planning Proposal states that day-to-day operation of the serviced apartments would have a negative impact upon community cohesion, safety and security and the sense of place felt by both existing local residents and future residents of the development. This statement is supported by thirteen submissions submitted with the Proposal supporting the conversion of the serviced apartments to residential dwellings.

It is acknowledged that the likelihood of nineteen (19) serviced apartments on-site operating potentially every day of the year will create a greater amenity impact upon existing and new local residents than if those serviced apartments were private dwellings.

Conversion of the serviced apartments to residential dwellings will provide much needed housing in the Balmain area. A rezoning to facilitate the land use change for the serviced apartments will comply with the relevant housing provision sections of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', S117 Ministerial Direction 3, 'Leichhardt 2025+' and Leichhardt's Community & Cultural Plan 2011-2021', and is supported. It is recommended that Building B1 and Buildings C1-C4 be rezoned to General Residential (R1) to allow the conversion.

Traffic and Parking Impacts

The current Proposal states that the traffic impacts of the proposed rezoning are likely to be similar to the approved development. This has been examined by Council's Traffic team and no concerns were raised.

Any future modification to an existing development consent or new development application would be required to comply with Council policy and relevant controls.

Visual Impacts

The Proposal does not propose any changes to built form, building envelopes or building height. Any such changes would require a future modification to a development consent or new development application subject to Council policies and controls.

Section 94/VPA

The planning proposal would facilitate the conversion of the nineteen (19) serviced apartments under D/2013/406 to residential dwellings subject to DA consent. Section 94 contributions would then be payable for each apartment converted from commercial to residential use. It is noted that the applicant will rehabilitate approximately 2160sqm of foreshore land and dedicate to Council under Section 94 of the Environmental Planning and Assessment Act 1979 and the Leichhardt Open Space Recreation Contributions Plan under D/2013/406.

It is considered that the planning proposal will result in considerable property uplift value, with the 19 serviced apartments being converted to residential dwellings. The Director Corporate and Information Services has advised the applicant has not offered to enter into a Voluntary Planning Agreement in relation to the proposed zone change.

Land use specific rezoning justification

Rather than a simple rezoning of the entire site to R1, rezoning various parts of the current site to a number of different zones would better reflect the land uses already endorsed by Council and be consistent with Council's long term strategic plans. It would also allow for the conversion of the nineteen (19) serviced apartments under D/2013/406 to residential dwellings while providing for the long term retention of employment lands.

A more site specific rezoning of existing land uses would also better integrate the site into the surrounding area, providing greater certainty for both existing and future landowners and tenants.

Service apartments conversion to residential dwellings

As detailed in the report it is recommended that Council support allowing the change of land use from serviced apartments to residential dwellings.

To best facilitate this change it recommended that 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 is General Residential (R1). It is recommended that Council support the rezoning of this land as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.



Proposed LEP Zoning Map

 R1 General Residential

LEICHHARDT MUNICIPAL
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Live-work terraces in Building A2

As part of the development approval D/2013/406 Building A2 provides nine (9) live-work terraces. Each live-work terrace contains 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. As detailed in the report it is recommended that Council retain all employment generating land approved on-site.

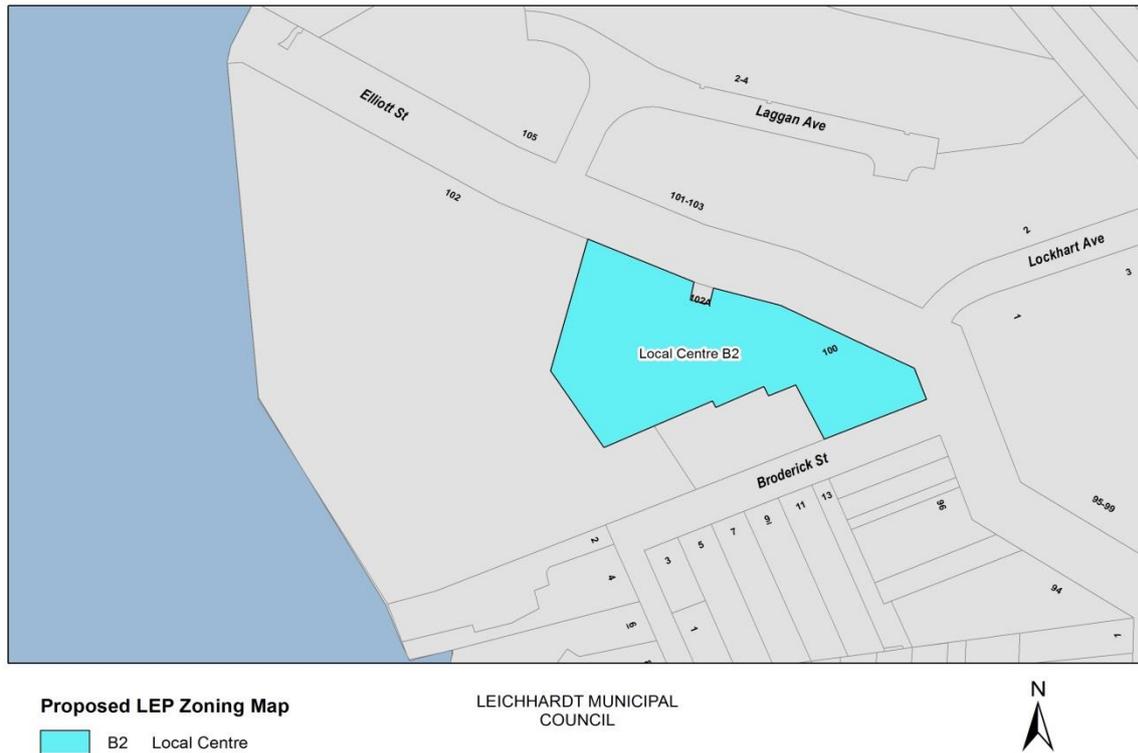


The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of the nine (9) live-work terraces in Building A2 is Zone B7 Business Park. Clause 6.12 (Residential accommodation in Zone B7) aims to facilitate exactly this type of development. It is recommended that Council support the rezoning of this land (see proposed mapping above) as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.

Mixed use (commercial space with residential dwellings above)

As part of the development approval D/2013/406 Buildings A1 and B2 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.

As detailed in the report it is recommended that Council retain all employment generating land approved on-site. It is recommended that these parts of the site remain as approved for mixed use development.



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. It is recommended that as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination these parts of the site retain their existing zoning.

Foreshore land dedication

As part of development application D/2013/406 approximately 2160sqm of foreshore land 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. The Planning Proposal seeks to rezone this land to General Residential (R1). The objectives and permitted land uses of these two zones do not best reflect the future land use of public open space.

A more site specific rezoning of future land use would better integrate the site into the surrounding area, providing greater certainty for both existing and future landowners, tenants, local business owners and workers.



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. It is recommended that Council support the rezoning of this land as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.

Summary/Conclusions

The Proponent's Planning Proposal to rezone the entire site from Local Centre (B2) zone to General Residential (R1) is 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 it is recommended that Council submit the attached Council 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) with the Local Centre (B2) zoning retained on the rest of the site.

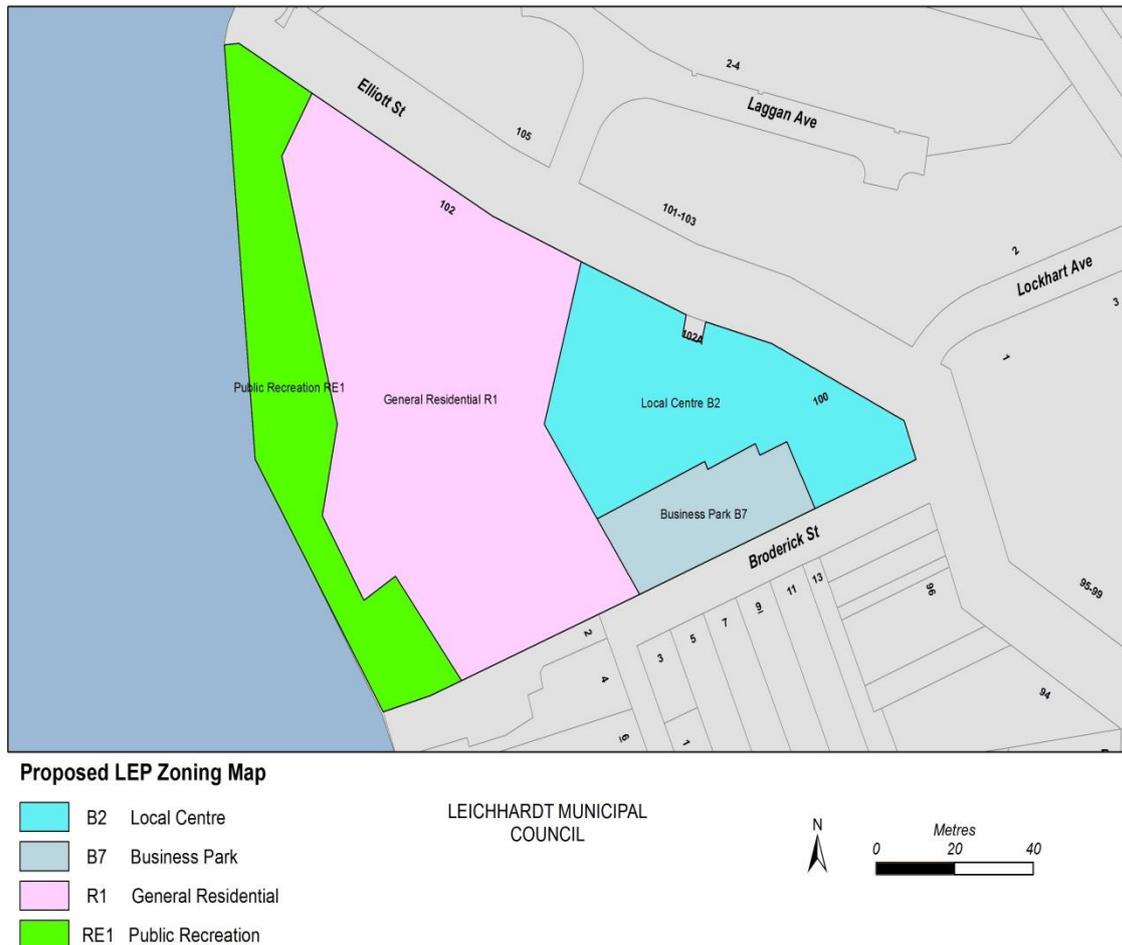


Figure 4: Proposed rezoning of the subject site to reflect land uses approved as part of D/2013/406

Building A1 and B2 - To remain zoned Local Centre (B2)

Building A2 - To be rezoned Business Park (B7)

Buildings B1 and C1-C4 - To be rezoned General Residential (R1)

Foreshore land to be dedicated to Council - To be rezoned Public Recreation (RE1)

Attachments

1. Proponent Planning Proposal for 100-102 Elliott Street, Balmain
2. Council Planning Proposal for 100-102 Elliott Street, Balmain

[Attachment 1: Planning Proposal prepared by RPS for 100-102 Elliott St...](#)

[Attachment 2 Council Planning Proposal for 100-102 Elliott Street, Bal...](#)