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Mr Peter Head
General Manager
Leichhardt Municipal Council
PO Box 45
LEICHHARDT NSW 2040

Our ref: PP_2015_LEICH_002_00 (15/08644)

Dear Mr Head,

Planning proposal to amend Leichhardt Local Environmental Plan 2013

I am writing in response to Council's letter dated 30 April 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to make the following amendments to Leichhardt LEP 2013:

1. amendment of clause 6.8 Development in areas subject to aircraft noise;
2. amendment of the Land Use Table (RE1 Public Recreation) to include 'recreation areas' as permissible without consent, and 'restaurant or café' as permissible with consent';
3. amendment of Schedule 1 Additional Permitted Uses (in relation to 44-46 Smith Street, Rozelle);
4. amendment of Heritage Map to correctly identify Balmain Hospital – Main Building;
5. rezoning of 77 Taylor Street and 148 Wigram Road, Annandale, from R1 General Residential to RE1 Public Recreation, and consequent correction of Floor Space Ratio Map and removal of Minimum Lot Size control; and
6. rezoning of part of Leichhardt Park from R1 General Residential to RE1 Public Recreation and consequent correction of Floor Space Ratio Map and Heritage Map, and removal of Minimum Lot Size control.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I am satisfied that the proposal's inconsistency with section 117 Direction 3.1 Residential Zones (in relation to items 5 and 6 above) is of minor significance.

However, Council is advised that the Department does not support the inclusion of 'recreation areas' as permitted without consent in the Land Use Table (RE1 Public Recreation zone). Under the *Standard Instrument (Local Environmental Plans) Order 2006*, 'recreation areas' are mandated as 'permitted with consent'. 'Recreation areas' cannot be made permissible in Leichhardt LEP 2013 without an amendment to the Standard Instrument. The planning proposal should therefore be amended to remove this item.

In relation to the proposed amendment to Schedule 1 (item 3 above), a number of the proposed additional permitted uses may already be permissible via *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or any applicable provisions relating to temporary

uses of land. Uses already permitted on the site may be deleted at legal drafting stage of the LEP amendment to remove duplication (eg. residential care facilities, telecommunications facilities).

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 6 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment's regional team for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any queries in regard to this matter, I have arranged for Mr Andrew Watkins of the Department of Planning and Environment's regional office to assist. Mr Watkins can be contacted on (02) 9228 6558.

Yours sincerely,



24.7.15

Tim Archer
Acting Director, Metropolitan (CBD)
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2015_LEICH_002_00): to amend the *Leichhardt Local Environmental Plan 2013* as follows:

1. amendment of clause 6.8 Development in areas subject to aircraft noise;
2. amendment of the Land Use Table (RE1 Public Recreation) to include 'recreation area' as permissible without consent, and 'restaurant or café' as permissible with consent';
3. amendment of Schedule 1 Additional Permitted Uses (in relation to 44-46 Smith Street, Rozelle);
4. amendment of Heritage Map to correctly identify Balmain Hospital – Main Building;
5. rezoning of 77 Taylor Street and 148 Wigram Road, Annandale from R1 General Residential to RE1 Public Recreation and consequent correction of Floor Space Ratio Map and removal of Minimum Lot Size control; and
6. rezoning of part of Leichhardt Park from R1 General Residential to RE1 Public Recreation and consequent correction of Floor Space Ratio Map and Heritage Map, removal of Minimum Lot Size control.

I, the Acting Director, Metropolitan (CBD), at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Leichhardt Local Environmental Plan 2013* as described above should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to amend the planning proposal to:
 - (a) delete the proposed amendment to include 'recreation areas' as permissible without consent in the Land Use Table (RE1 Public Recreation Zone).
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2013).
 - (b) consultation is required with the NSW Office of Environment and Heritage under section 56(2)(d) of the Act. This public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
 - (c) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

- (d) The timeframe for completing the Local Environmental Plan is to be 6 months from the week following the date of the Gateway determination.

Dated 24th day of July 2015



Tim Archer
Acting Director, Metropolitan (CBD)
Planning Services

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Leichhardt Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_LEICH_002_00	Housekeeping Amendments to Leichhardt Local Environmental Plan 2013.

In exercising the Minister's functions under section 59, the Council must comply with "A guide to preparing local environmental plans" and "A guide to preparing planning proposals".

Dated

24.7.15

Tim Archer
Acting Director, Metropolitan (CBD)
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated Local Environmental Plan amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- The Relevant Planning Authority is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the Relevant Planning Authority should add additional rows to **Table 2** to include this information
- The Relevant Planning Authority must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible Plan Making Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the Relevant Planning Authority's request to have the Local Environmental Plan (the Plan) notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_LEICH_002_00
Date Sent to Department under s56	22 May 2015
Date considered at LEP Review Panel	N/A
Gateway determination date	24 July 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft Plan exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt Plan		
Date Plan made by GM (or other) under delegation		
Date sent to the Department requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: