

LEICHHARDT MUNICIPAL COUNCIL

REPORT

DIVISION: ENVIRONMENTAL AND COMMUNITY MANAGEMENT

SUBJECT: HOUSEKEEPING AMENDMENTS TO LEICHHARDT LEP
2000

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DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Nil

Policy Implications: Proposed amendment to LEP 2000

Strategic Plan Objective: Community Wellbeing
Place Where We Live & Work
A Sustainable Environment
Sustainable Services and Assets

Staffing Implications: Nil

Notifications: Department of Planning

Other Implications: Nil

EXECUTIVE SUMMARY

Since the preparation of the LEP 2000; Council has been made aware of a number of mapping errors, zoning and land classification anomalies as well as inconsistencies between schedules and maps. This Housekeeping Amendment proposes to correct these matters.

These amendments have been expedited ahead of the preparation of the new Comprehensive LEP so as to reduce Council's exposure to potential litigation, enable Council to resolve outstanding lease arrangements and remove unreasonable impediments on property owners.

This report seeks a Council resolution to endorse the '*Planning Proposal*' for the proposed Housekeeping Amendments to the LEP 2000. If supported by Council the Planning Proposal will be forwarded to the Department of Planning under the new Gateway plan-making process. The Department then determines if the proposal will proceed to public exhibition.

As two of the matters relate to the reclassification of public land it is proposed that Council contact nearby residents to advise them of Council's intentions relating to Item 5 – 107 Elliot Street & Paringa Reserve and Item 9 – 2-8 Weston Street, Balmain.

An executive summary of the proposed amendments is provided below.

ITEM 1 119 RENWICK STREET, LEICHHARDT

This amendment proposes to correct an inconsistency between the LEP 2000 heritage schedule and map, where the schedule incorrectly identifies the address of the *Former Presbyterian Church* as 119 Renwick Street, Leichhardt. The correct address is 2 Marion Street, Leichhardt.

ITEM 2 701- 703 PARRAMATTA ROAD (EUROSET P/L)

This amendment proposes to correct a mapping error by rezoning:

- The rear car park at 701-703 Parramatta Rd (Lot 1 DP 927456) from '*Residential*' to '*Industrial*'.

By rezoning this land, it provides Council with the capacity to address a range of traffic and amenity concerns raised by the community in relation to the operation of the business at 701-703 Parramatta Road.

ITEM 3 14 HATHERN STREET, LEICHHARDT

This amendment proposes to correct a mapping error by rezoning:

- The residential dwelling at 14 Hathern Street (Lot A DP 393123) from *'Industrial'* to *'Residential'*

Note: The owners of 14 Hathern Street indicated a desire for their property to remain zoned *'Industrial'*, despite the property being a residential dwelling.

ITEM 4 29 & 31 WILLIAM STREET, BALMAIN EAST

This amendment proposes to correct an inconsistency between the LEP 2000 heritage schedule and map, where the map fails to identify 29 & 31 William Street, Balmain East as heritage items.

ITEM 5 107 ELLIOT STREET (PELLEGRINI'S) & PARINGA RESERVE, BALMAIN

This amendment proposes to zone 107 Elliot Street, Balmain (currently unzoned land), to *'Open Space'* and to reclassify that portion of Paringa Reserve currently used as a refreshment room from community to operational land.

Both amendments will ensure LEP 2000 reflects the uses currently occurring and allow Council to resolve the long standing leasing issues on the site.

As the matter relates to the reclassification of public land it is proposed that Council contact nearby residents to advise them of Councils intentions relating to this item.

ITEM 6 REZONING OF LAND ACQUIRED BY COUNCIL TO OPEN SPACE

This amendment proposes to rezone a number of sites that council has acquired from *'Open Space to be Acquired'* to *'Open Space'*. Rezoning will also correct a mapping error associated with one of the sites.

ITEM 7 13 SIMMONS STREET, BALMAIN EAST

This amendment proposes to correct a mapping error made during the preparation of LEP 2000 by rezoning 13 Simmons Street (Lot 1 DP 562679) from *'Open Space'* to *'Residential'*.

ITEM 8 34 - 40 NICHOLSON STREET & 5A DUKE PLACE, BALMAIN

This amendment proposes to rezone to *'Residential'* those portions of 34, 36, 38 & 40 Nicholson Street and 5A Duke Place that were incorrectly zoned *'Open Space'* during the preparation of LEP 2000.

ITEM 9 2-8 WESTON STREET, BALMAIN

The amendment proposes to:

- rezone 2-8 Weston Street from '*Open Space to be acquired*' to '*Open Space*' as the land was acquired by Council in 2004 (rezoning will also correct a mapping error associated with the site); and
- reclassify the land from community land to operational land in order to facilitate the restoration, adaptive reuse of the state listed heritage item (Stone Building/Fenwick & Co Boat Store) in accordance with the adopted plan of management. The reclassification would provide Council with the option of granting a longer term lease of the land than permissible for community land.

As the matter relates to the reclassification of public land it is proposed that Council contact nearby residents to advise them of Councils intentions relating to this item.

1. Purpose of Report

This report presents proposed amendments to the Leichhardt Local Environmental Plan 2000 (LEP 2000). The intent of the amendments is to address mapping errors, zoning and land classification anomalies as well as inconsistencies between schedules and maps.

2. Recommendations

- (1) That Council endorse the '*Planning Proposal*' for the proposed Housekeeping Amendments to the LEP 2000, made in accordance with the new Gateway plan-making process of the EP&A Act 1979 and forward to the Minister for Planning for determination.
- (2) That staff inform local residents of the details of Council's proposal to reclassify land at Paringa Reserve, Balmain (Item 5) and 2-8 Weston Street, Balmain (Item 9).

3. Background

Since the preparation of the LEP 2000; Council has been made aware of a number of mapping errors, zoning and land classification anomalies as well as inconsistencies between schedules and maps. This Housekeeping Amendment proposes to correct these matters.

These amendments have been expedited ahead of the preparation of the new Comprehensive LEP so as to reduce Council's exposure to potential litigation, enable Council to resolve outstanding lease arrangements and remove unreasonable impediments on property owners.

A discussion paper for the Housekeeping Amendment was provided to Councillors on the 3rd November 2009. A Councillor briefing was held on the 17th November 2009. A summary of the proposed amendments is provided within this report.

Under the gateway process Council is required to prepare a 'Planning Proposal', the first step in the in preparing an amendment to a Local Environmental Plan (LEP). The Planning Proposal for each proposed amendment is attached to this report.

3.1 The Gateway Process

In July 2009, the Department of Planning introduced a new process for amending Local Environmental Plans (LEPs). This process is known as the Gateway plan-making process.

The gateway process has the following steps:

- *Planning proposal* – the relevant planning authority (Council) is responsible for the preparation of a Planning Proposal, which explains the effect of and

justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General or a joint regional planning panel to be the relevant planning authority.

- *Gateway* – The Minister (or delegate) determines whether the Planning Proposal is to proceed. This Gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal can be varied.
- *Community consultation* – the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.
- *Assessment* – The relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan — the legal instrument.
- *Decision* – With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW legislation website

3.2 The Planning Proposal

The preparation of a Planning Proposal is the first step in preparing an amendment to an LEP. The Planning Proposal for each proposed amendment is attached to this report.

A Planning Proposal is a document that explains the intended effect of the proposed LEP amendment and the justification for making it. It will be used and read by the general community as well as those who are responsible for deciding whether or not the proposal should proceed. As such it has been written with the intention of being concise, accessible, and technically competent.

3.3 Reclassification of Public Land

The Planning Proposal involves two matters requiring the reclassification of Council land Item 4 – 107 Elliot Street & Paringa Reserve and Item 8 – 2-8 Weston Street, Balmain. As a consequence, the Planning Proposal must provide information consistent with LEP practice note “*Classification and reclassification of public land through a local environmental plan*” (PN 09–003).

4. Report

Each of the proposed amendments is outlined below. The corresponding Planning Proposal is attached to the Report. The Council Report will provide a greater background to some issues than the Planning Proposal as a result of prescribed layout for planning proposals required by the Department of Planning.

4.1 Item 1 119 Renwick Street, Leichhardt

4.1.1 Proposed Amendment

This amendment proposes to correct an inconsistency between the LEP 2000 heritage schedule and map, where the schedule incorrectly identifies the address of the *Former Presbyterian Church* as 119 Renwick Street, Leichhardt. The correct address is 2 Marion Street, Leichhardt.

4.1.2 Site Description

The subject site is the *Former Presbyterian Church* located at 2 Marion Street, Leichhardt.



4.1.3 Justification for Amendment

- 2 Marion Street is the *Former Presbyterian Church* and is identified as a heritage item on the LEP Heritage Conservation Map.
- The Heritage Schedule in the Leichhardt LEP 2000 incorrectly identifies the address of the *Former Presbyterian Church* as 119 Renwick Street.
- The owner of 119 Renwick Street, Leichhardt has advised Council that the incorrect listing has impeded his efforts to sell his property in recent years.
- The amendment will correctly identify the address of Heritage Item – *Former Presbyterian Church* at 2 Marion Street within the Heritage Schedule in the LEP 2000.

 LEICHHARDT COUNCIL TOWNPLAN		Leichhardt Local Environmental Plan 2000			
Queens Place, Balmain	1	Hut	Former Post Office	On Waterview Street	Regional
	1-8	Hut	Three terrace houses		State
Quirk Street, Rozelle	15	Hut	Large house	NW on Graham Street	Local
Railway Parade, Annandale		Hut	Substation SPS 5	At Hutchinson Street	Local
		Landscape	Street trees— Row of Palms	Adjacent to Whites Creek	Local
Rayner Street, Lilyfield		Landscape	Avenue of Phoenix Canopies		Local
		Landscape	Street trees— Avenue of Bush Box and one Brachychiton	Also Lilyfield Road and Eric Street	Local
Redlion Street, Rozelle	1-12	Duill	Warty Terrace		Local
Renwick Street, Leichhardt	119	Duill	Former Presbyterian Church	On Marion Street	Local
Reservoir Avenue, Balmain	1-7	Hut	Semi-detached cottages		State
Reynolds Street, Balmain	69, 71-79	Duill	Semi-detached cottages		State
	100-104	Hut	Former Unilever Administration building	Between Hyam and Hay Streets	State
		Landscape	Street trees— Row of Crush Box		Local
Ross Street, Birchgrove	2-8	Duill	Semi-detached cottages		Local
Roschberry Street, Balmain	5-7	Duill	Unilever Oil Mill group of buildings	Includes The Copra Store, The Oil Mill Building, The Engineers Store, The Electricians Shop and The Vint Building	State
Ross Street, Glebe	1	Duill	Warehouse		Local
Rowntree Street, Balmain	48	Hut	House		Regional
	45	Duill	Shop building	On of Curle Road, former shop	Local

4.1.4 Recommendation

It is recommended that the LEP 2000 heritage schedule be corrected by removing the address of the *Former Presbyterian Church* currently identified as 119 Renwick Street and replacing with 2 Marion Street, Leichhardt.

Refer to Attachment A – Planning proposal for 119 Renwick St., Leichhardt.

4.2 Item 2 701- 703 Parramatta Road (EUROSET P/L), Leichhardt

4.2.1 Proposed Amendment

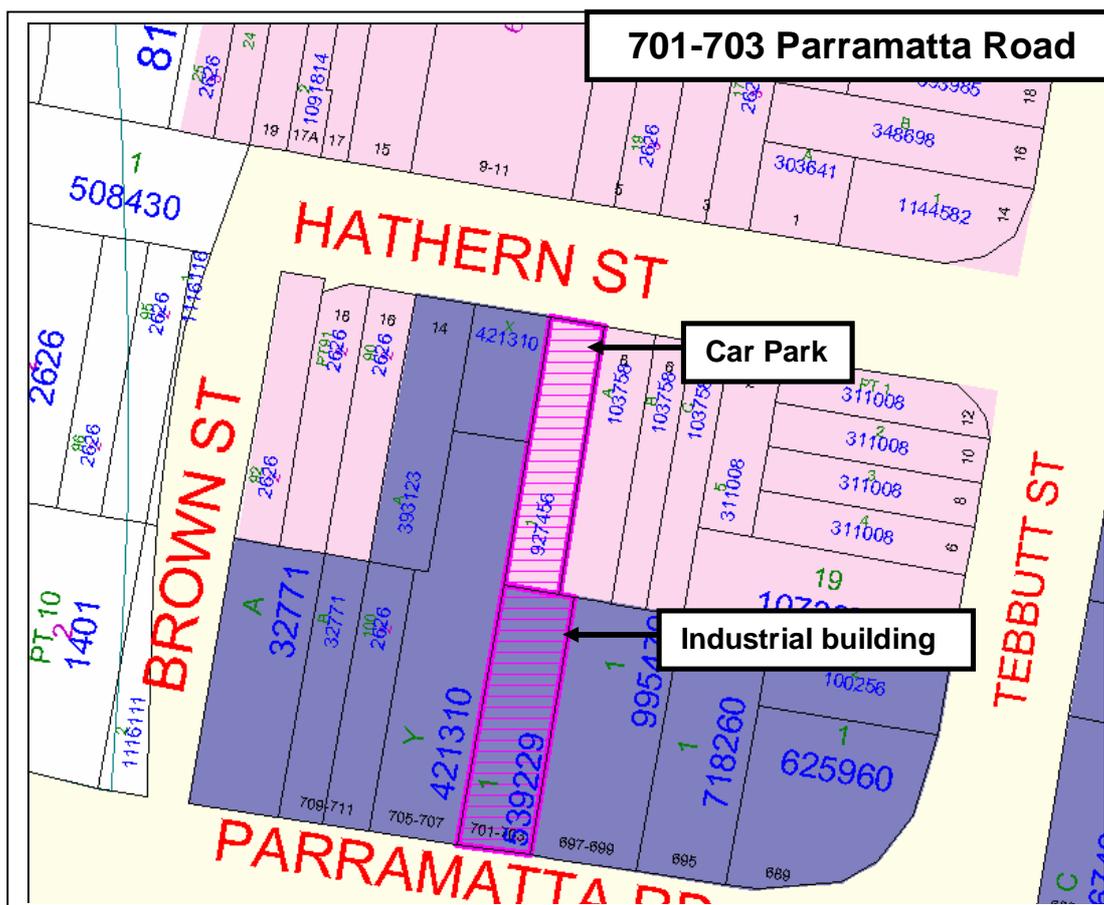
This amendment proposes to correct a mapping error by rezoning:

- The rear car park at 701-703 Parramatta Rd (formally known as 10 Hathern Street) (Lot 1 DP 927456) from '*Residential*' to '*Industrial*'.

4.2.2 Site Description

The subject site, 701-703 Parramatta Road, Leichhardt is comprised of two lots; those being:

LOT	Zone under LEP 2000	Current Use
Lot 1 DP 539229	Industrial	<ul style="list-style-type: none"> • Two storey industrial building for the use of bulky goods retailing (the site presently supplies rendering materials to the building industry).
Lot 1 DP 927456 (formally known as 10 Hathern Street)	Residential	<ul style="list-style-type: none"> • Car park which services the bulky goods store located on Lot 1 DP 539229. • The car park has direct vehicle access to Hathern Street, and does not have access to Parramatta Road.



The adjoining properties to the site along Parramatta Road are all industrial buildings and zoned for the use of Industry under the Leichhardt LEP 2000.

The adjacent and opposite buildings along Hathern Street consist of dwelling houses and an industrial building. The predominant zone along Hathern Street is residential with the exception of 705-707 Parramatta Road (12 Hathern Street) and 14 Hathern (a residential dwelling), which are zoned 'Industrial' under the Leichhardt Local Environmental Plan 2000.

The subject site is not a heritage item or located within a conservation area.

4.2.3 Site Development History

Table 1 outlines the development history of 701-703 Parramatta Road Leichhardt.

Table 1 – Development history of 701-703 Parramatta Road Leichhardt

Lot 1 DP 539229 – Industrial Building		
D/2008/465	Use of premises for warehouse and bulky goods retail of building materials at 701 - 703 and create right of way for vehicle access and parking at rear of 705 - 707.	Refused - 8/05/2009
D/2003/590	Demolition of existing industrial building at 695-697 Parramatta Road, partial demolition and alterations and additions to rear of existing terrace dwelling on Tebbutt Street, alterations and additions to existing building at 701-703 Parramatta Road and erection of new four storey industrial building to be used for bulky goods retailing	Refused - 17/8/2004
BA98/248	Construction of builders warehouse at rear of property	Approved
DA263/1987	Erect roof top advertisement sign	Unknown
DA248/1986	Erect roof top advertisement sign	Approved - 1/10/1986
DA 388/1984	Manufacture of industrial machinery (application modified 11/6/85)	Approved - 23/10/1984
DA 3317	Erect factory for manufacturing – machinery tools & plastic moulds (with conditions)	Approved - 9/7/1968
DA 3247	Manufacturing – selling tools – plastic moulding machine (with conditions)	Approved - 20/2/1968
DA 2592	Erect factory for manufacturing – selling machine tools & plastic moulding machines	Approved - 6/4/1965
BA4663	Storage shed and laundry	Approved - 29/8/1961
Lot 1 DP 927456 – Car Park (formally known as 10 Hathern Street)		
IDA975	Demolish dwelling known as 10 Hathern Street Leichhardt and use the land for off street vehicular parking in connection with the company's use of adjoining land	Approved - 27/6/1977
DA832	For off street parking in connection with business manufacturing tools etc.	Refusal - 17/12/1968

4.2.4 Site Zoning History

Table 2 outlines the zoning history of both lots which constitute 701-703 Parramatta Road.

Table 2 – Zoning history 701-703 Parramatta Road

LEP	ZONING	
	Car park (Lot 1 DP 927456)	Industrial Building (Lot 1 DP 539229)
1951 - County of Cumberland	Industrial Area Class B	Industrial Area Class B
1967 - Planning Scheme	Residential 2(a)	Light Industrial 4(b)
1979 - Planning Scheme	Residential 2(c)	Light Industrial 4(b)
1984 - LEP 20	Residential 2(b2)	Light Industrial 4(b)
1998 - exhibited draft LEP	Residential	Industrial
2000 - LEP	Residential	Industrial

4.2.5 Permissibility of Uses Being Undertaken On Site

In 1965, the first consent for 701-703 Parramatta Road (DA2592) gave approval to “erect factory for manufacturing and selling machine tools and plastic moulding machines”.

In 1977, under Interim Development Application (IDA 975), approval was granted to demolish a dwelling at the subject lot, Lot 1 DP 927456 (previously known as 10 Hathern Street) and use the land for off street vehicular parking in connection with the company’s use of the adjoining industrial building (Lot 1 DP 539229).

The last approved use for No. 701-703 Parramatta Road was granted in 1984 (DA388/84) for the manufacture of industrial machinery, being a Class 8 building.

The use and operation presently of 701-703 Parramatta Road has altered since the 1984 Development Application. The use of the premise can be described as being for the purposes of supplying rendering materials to the building industry (bulky goods retailing).

Council however has not issued consent for the operation of the current use. Council considers that existing use rights cannot be established.

As a consequence, a DA was submitted to Council in 2008 seeking approval from Council to formalise:

- the current use of Lot 1 DP 539229 as a premises for warehouse and bulky goods retail of building materials; and
- the current use of Lot 1 DP 927456 as a car park associated with the business premises

This DA was refused by Council on the grounds that Lot 1 DP 927456 is currently zoned *'Residential'* and under Leichhardt LEP 2000 the type of car parking proposed in the DA is not permissible with in the Residential Zone.

4.2.6 Justification for Rezoning

Mapping Error

Recent investigations into the zoning of 701-703 Parramatta Road and surrounding land indicate that a mapping error occurred during the preparation of Leichhardt LEP 2000.

It appears the intention was to zone from *'Residential'* to *'Industrial'* those properties on Hathern Street being used for industrial purposes, which were the rear lots of 701-703 and 705-707 Parramatta Rd.

As illustrated in Table 3, the mapping error occurred when the residential dwelling at 14 Hathern Street (Lot A DP 393123) was rezoned from *'Residential'* to *'Industrial'* rather than the car park associated with the industrial uses at 701-703 Parramatta Road (Lot 1 DP 927456).

Table 3 – Use and zoning history of subject site

ADDRESS	LOT/DP	USE	FORMER ZONING (PSO -1979)	FORMER ZONING (LEP 20 – 1984)	CURRENT ZONING (LLEP 2000)
14 Hathern St	Lot A DP 393123	Dwelling	Residential 2(c)	Residential 2(b2)	Industrial
701-703 Parramatta Rd	Lot 1 DP 927456	Car Park	Residential 2(c)	Residential 2(b2)	Residential
	Lot 1 DP 539229	Industrial building	Light Industrial 4(b)	Light Industrial 4(b)	Industrial
705-707 Parramatta Rd	Lot X DP 421310	Industrial building	Light Industrial 4(b)	Residential 2(b2)	Industrial
	Lot Y DP 421310	Industrial building	Light Industrial 4(b)	Light Industrial 4(b)	Industrial

Traffic Generation Concerns

During the assessment of the recently refused DA for 701 & 703 Parramatta Road (D/2008/465), numerous concerns were raised by the community in relation to the operation of the business on that site:

- increased traffic and congestion
- traffic management – large delivery trucks blocking Hathern Street
- parking
- residential amenity (noise and pedestrian safety)

As Hathern Street is controlled by the RTA, Council has no ability to control the traffic related issues. In addition, as there is no valid consent for the use on the site, Council is unable to refer to conditions to address these issues.

However Council can provide itself with the capacity to address these issues if it were to support the rezoning of the car park at the rear of 701-703 Parramatta Road from *'Residential'* to *'Industrial.'*

By rezoning this land, the car park associated with the industrial use of the site would become permissible, and Council could then choose to approve a DA for the site and attach conditions which addressed the communities concerns about traffic and amenity.

4.2.7 Recommendation

It is recommended that the mapping error be corrected by rezoning:

- The rear car park at 701-703 Parramatta Rd (Lot 1 DP 927456) from *'Residential'* to *'Industrial'*

Refer to Attachment B – Planning proposal for 701-703 Parramatta Road, Leichhardt.

4.3.3 Site Zoning History

As shown in Tables 1 below, 14 Hathern Street was historically zoned residential under various planning instruments up until Leichhardt LEP 2000. The sites rezoning to *'Industrial'* was a consequence of the mapping error during the preparation of LEP 2000.

Table 1 – Zoning history 14 Hathern Street.

LEP	ZONING
	14 Hathern Street (Lot A DP 393123)
1951 - County of Cumberland	Suspended from scheme under Section 342Y <i>Local Government Act 1919.</i> Gov. Gaz. No 148 23-12-55
1967 - Planning Scheme	Residential 2(a)
1979 - Planning Scheme	Residential 2(c)
1984 - LEP 20	Residential 2(b2)
1998 - exhibited draft LEP	Industrial
2000 - LEP	Industrial

4.3.4 Justification for Rezoning

Mapping Error

Recent investigations into the zoning of 14 Hathern Street and surrounding land indicate that a mapping error occurred during the preparation of Leichhardt LEP 2000.

It appears the intention was to zone from *'Residential'* to *'Industrial'* those properties on Hathern Street being used for industrial purposes, which were the rear lots of 701-703 and 705-707 Parramatta Rd.

As illustrated in Table 2 below, the mapping error occurred when the residential dwelling at 14 Hathern Street (Lot A DP 393123) was rezoned from *'Residential'* to *'Industrial'* rather than the car park associated with the industrial uses at 701-703 Parramatta Road (Lot 1 DP 927456). The matter of 701-703 Parramatta Road is addressed in Item 2 of this Report to Council.

Table 2 – Use and zoning history of subject site

ADDRESS	LOT/DP	USE	FORMER ZONING (PSO -1979)	FORMER ZONING (LEP 20 – 1984)	CURRENT ZONING (LLEP 2000)
14 Hathern St	Lot A DP 393123	Dwelling	Residential 2(c)	Residential 2(b2)	Industrial
701-703 Parramatta Rd	Lot 1 DP 927456	Car Park for Industrial Use	Residential 2(c)	Residential 2(b2)	Residential
	Lot 1 DP 539229	Industrial building	Light Industrial 4(b)	Light Industrial 4(b)	Industrial
705-707 Parramatta Rd	Lot X DP 421310	Industrial building	Light Industrial 4(b)	Residential 2(b2)	Industrial
	Lot Y DP 421310	Industrial building	Light Industrial 4(b)	Light Industrial 4(b)	Industrial

4.3.5 Consultation

The owner of 14 Hathern Street, Leichhardt has indicated, via correspondence to Legal Services Manager, dated 3 October 2009, a desire for their property to remain zoned '*Industrial*', despite the property being a residential dwelling. In the letter the owner states:

“our property at 14 Hathern Street was zoned ‘Industrial’ at least a decade before the house at 10 Hathern Street was demolished were the car park now stands”

“in this conversation (with Council) and subsequent letter by Council it confirmed the zoning of our property as being correctly zoned industrial”.

A Councillor Briefing was held on the 17th November 2009 where the rezoning was discussed and it was requested that a meeting between Councillors, Council Staff and the residents of Hathern Street to discuss the matter further.

On the 30th November 2009 a meeting was held between the Mayor, Councillor Vera-Ann Hannaford, Council Staff, the owner of 14 Hathern Street and six residents of Hathern Street (7 residents provided apologies). The owner of 14 Hathern Street requested that his property remain zoned '*Industrial*'. The owner stated that following the purchase of his property in 1978 Council informed him that the property was zoned '*Industrial*'. Those at the meeting indicated they did not support an expansion of industrial uses on Hathern Street but supported the retention of the '*Industrial*' zoning of 14 Hathern Street.

4.3.6 Staff Investigations

The owner's claims are not consistent with Council records. The owner of 14 Hathern Street has stated via correspondence on 3 October 2009 that:

- the property was zoned '*Industrial*' prior to 2000; and
- Council had previously confirmed this verbally and in writing.

As shown in Table 1 above, 14 Hathern Street was historically zoned residential under various planning instruments up until Leichhardt LEP 2000. The sites rezoning to *'Industrial'* was a consequence of the mapping error during the preparation of LEP 2000.

Council does not have a property file or any development records for 14 Hathern Street. Therefore Council cannot verify if, as claimed by the property owner, Council had previously provided advice confirming the property was zoned *'Industrial'* prior to 2000. To date a copy of this letter has not been provided by the owner.

4.3.7 Recommendation

It is recommended that the mapping error be corrected by rezoning:

- The residential dwelling at 14 Hathern Street (Lot A DP 393123) from *'Industrial'* to *'Residential'*.

Council can choose whether or not it wishes to support the rezoning of 14 Hathern Street from *'Industrial'* to *'Residential'* in this proposed amendment to LEP 2000.

Refer to Attachment C – Planning proposal for 14 Hathern Street, Leichhardt.

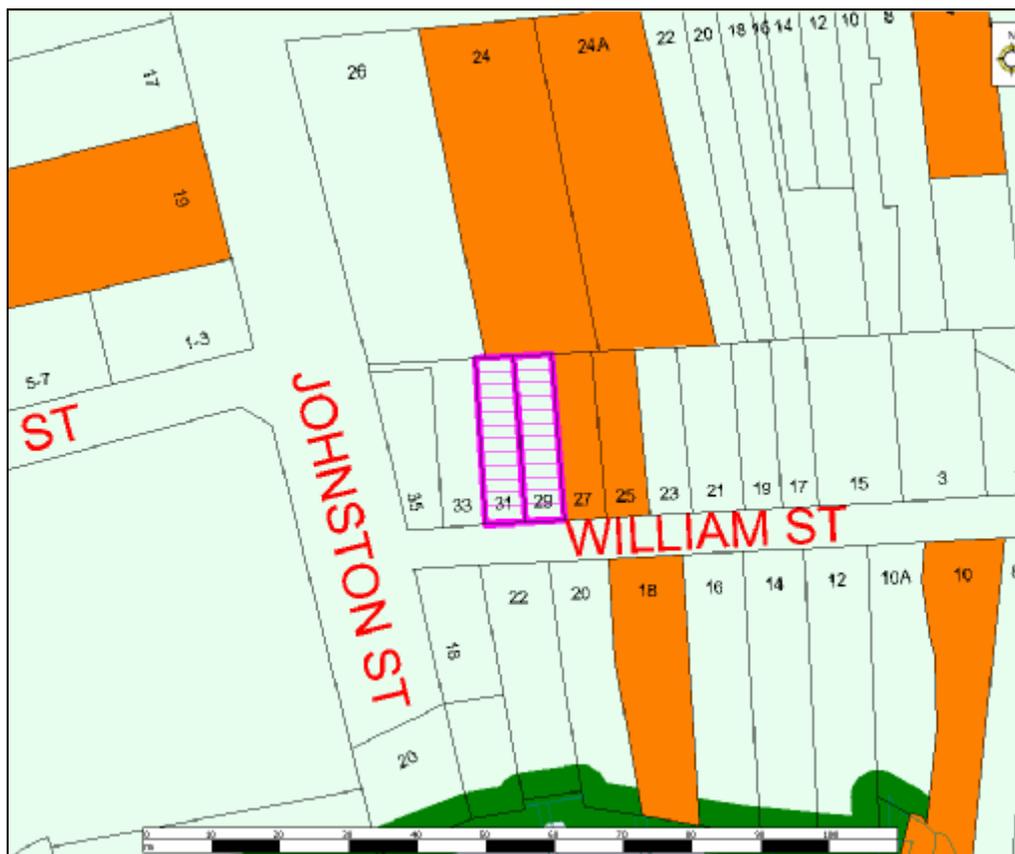
4.4 Item 4 29 & 31 William Street, Balmain East

4.4.1 Proposed Amendment

This amendment proposes to correct an inconsistency between the LEP 2000 heritage schedule and map, where the map fails to identify 29 & 31 William Street, Balmain East as heritage items.

4.4.2 Site description

The subject site is 25-31 William Street, Balmain East.



4.4.3 Justification for Amendment

- 29 & 31 William Street are identified heritage items in the LEP 2000 Heritage schedule, as part of the group known as 25-31 William Street, Balmain East.
- The LEP 2000 Heritage map identifies 25 & 27 William Street as heritage items but does not identify 29 & 31 William Street as heritage items.
- Investigations by Council's Heritage Planner and Legal Services Manager have confirmed the two properties are identified heritage items and the anomaly is due to a mapping error.

4.4.4 Recommendation

It is recommended that the LEP 2000 heritage map be corrected by identifying 29 & 31 William Street, Balmain East as heritage items.

TOWN PLAN		Lisleghardt Local Environmental Plan 2010			
Wickham Road, Budgegong	6	Util.	Single storey weatherboard house	Local	
6	20	Built	Single storey brick house	Local	
11	22	Built	Two storey shoozo Italianate manor villa	Local	
Wickham Road and Harold Street Budgegong		Util.	Toolshed (now garage) called Old Smithy	Thirty items of significance comprising plant and equipment of the former Calvek tin factory as shown on sheets 122-129 of the Lisleghardt Inventory of Heritage Areas, a copy of which is held at the office of the council.	
Walter Street, Balmain	15	Util.	Dishpeltelope	Regional	
	18	Built	Tiba Tiba	Local	
Wigram Road, Clohe	114, 15, 17	Util.	Blue van Terrace	Local	
		Landscape	Rational Playground	Local	
William Street, Balmain	4-5	Util.	Terrace houses	Regional	
	18	Built	House	Regional	
	25-31	Built	Semi-detached houses	Local	
William Street, East Balmain	10	Util.	Two storey stone masonry house, 2 level	Local	
William Street, Lisleghardt	100-102	Built	Semi-detached houses	Local	
Wentley Street, Clohe		Built	St James RC Church and Presbytery	Local	
Wentley Street, Balmain		Landscape	Mundi Park	Local	
York Place, Rozelle	2-15	Built	York Buildings	Local	



25-31 William Street, East Balmain – Semi detached houses

Refer to Attachment D – Planning proposal for 29 & 31 William Street, Balmain East.

4.5 **Item 5** 107 Elliot Street (Pellegrini’s) & Paringa Reserve, Balmain

4.5.1 Proposed Amendment

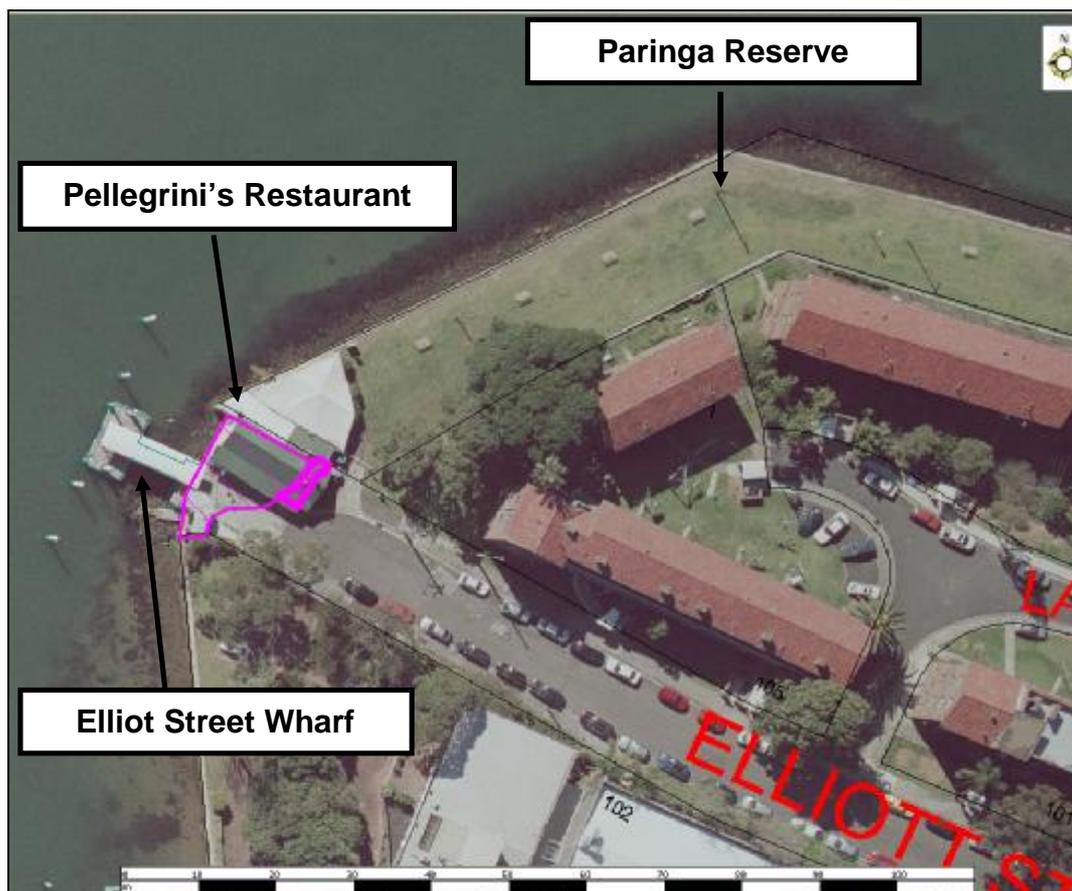
This amendment proposes to zone 107 Elliot Street, Balmain (currently unzoned land), to ‘Open Space’ and to reclassify that portion of Paringa Reserve currently used as a refreshment room from community to operational land.

Both amendments will ensure LEP 2000 reflects the uses occurring and allow council to resolve the long standing leasing issues on the site.

As the matter relates to the reclassification of public land it is proposed that Council contact nearby residents to advise them of Councils intentions relating to this item.

4.5.2 Site description

The subject site is, Pellegrini's Restaurant at 107 Elliot Street, Balmain.

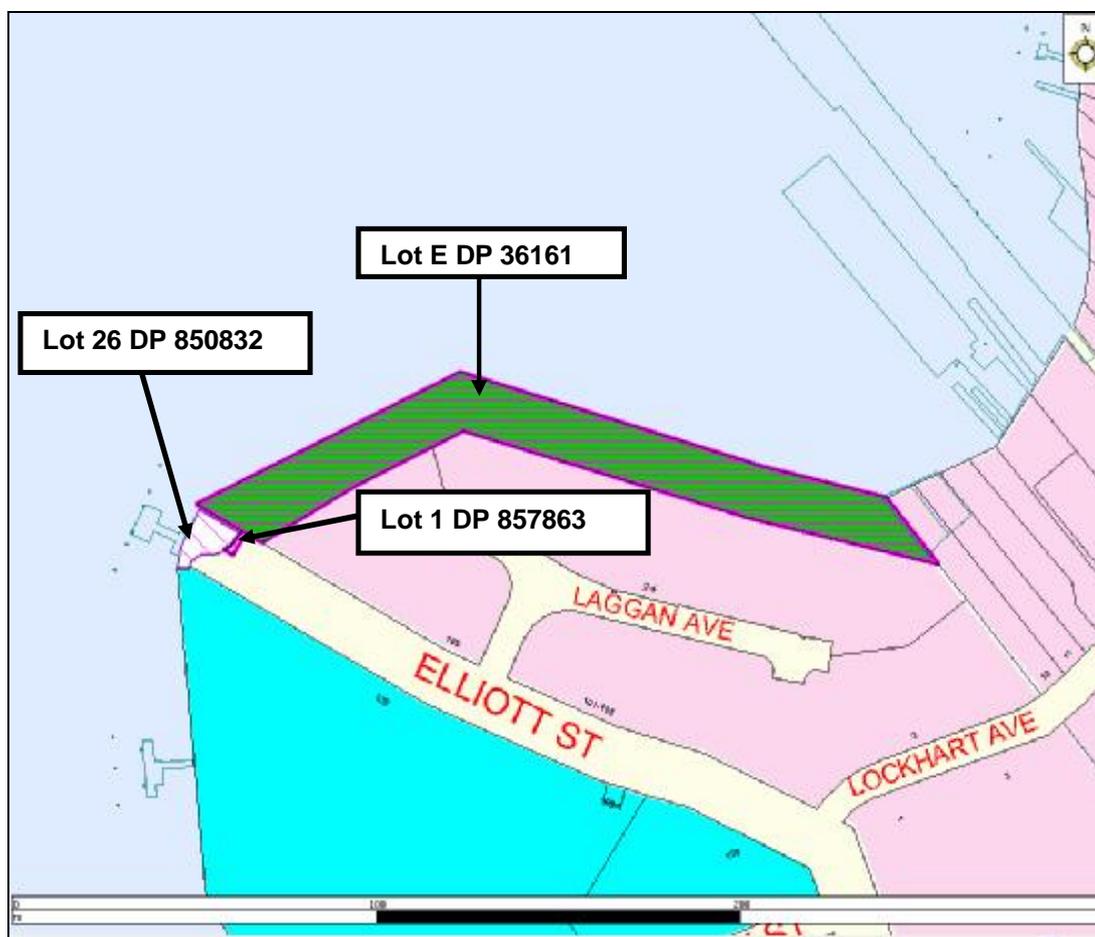


4.5.3 Justification for Amendment

This item relates to one building, including a covered terrace, which has existed in its current form for about 15 years. It is constructed for use as a restaurant by one operator only and could not sensibly be partitioned into a number of separate premises. The building is constructed over 3 lots with different zonings and classifications:

- part of lot 26 DP 850832 which is owned by NSW Maritime and leased by it to Leichhardt Council, is classified as operational land under the Local Government Act 1993 and is unzoned;
- lot 1 DP 852863 which is owned by Leichhardt Council, is classified as operational land under the Local Government Act, 1993 and is unzoned;

- part of lot E DP 36161 which is owned by Leichhardt Council and known as Paringa Reserve, is classified as community land under the Local Government Act, 1993 and is zoned open space.



It is sensible that the whole building be under the same zoning and the same classification, to ensure that Council and any lessee are able to deal with all parts of the building on a consistent basis. Otherwise, some parts of the building may legally be used for a purpose and the balance of the building may not be able to be used for the same purpose even though it is all one building, which would have adverse effects on its current use and on Council's ability to lease and deal with the building in the future to obtain the best outcome for the public.

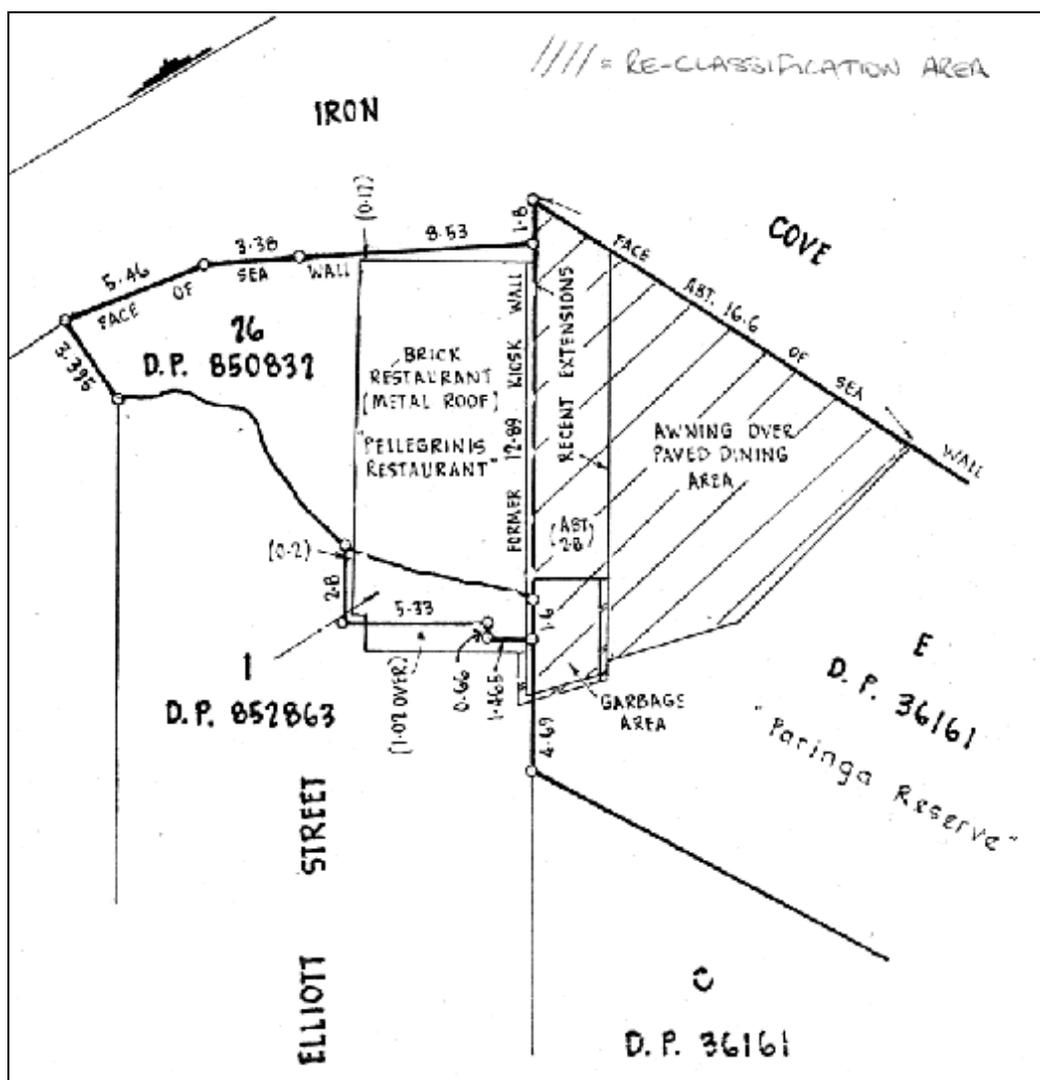
It is considered in the public interest to zone the currently unzoned sections 'Open Space', like the part of Paringa Reserve which is zoned 'Open Space', and include a site specific provision to allow a restaurant (refreshment room) rather than seek to rezone the whole of the site of the restaurant building as Business which would allow use in the future which are non compatible with the location of the building on the entry to the wharf and reserve. It is sought only to formalise and legally permit the current use of restaurant, but in a way that would allow improvements to the building and its operation in the future.

4.5.4 Recommendation

It is recommended that the long standing leasing issues be resolved by the following:

- Amend LEP 2000 to zone 107 Elliot Street Balmain, Lot 1 DP 852863 & Lot 26 DP 850832 (plan for lease purposes) to 'Open Space'.
- Reclassify from community to operational that part of Paringa Reserve, Lot E DP 36161, occupied by the refreshment room pursuant to the *Local Government Act 1993* and amend the Leichhardt LEP 2000 table of *Classification and Reclassification of Public Land* accordingly.
- Insert a site specific provision on Lot 1 DP 852863, Lot 26 DP 850832 and that part of lot E DP 36161 which has been reclassified that allows refreshment room as a permissible use limited to the land currently occupied by Pellegrini's Restaurant.
- Exhibit the draft plan consistent with LEP practice note "Classification and reclassification of public land through a local environmental plan" (PN 09-003).

Note: The proposed Council resolution directs that staff inform local residents of the details of Councils proposal to reclassify land at Paringa Reserve, Balmain.



Pellegrini's Restaurant – reclassification area

Reclassification Area: 140m²
 Paringa Reserve: 2972m²

Refer to Attachment E – Planning proposal for 107 Elliot Street (Pellegrini's) & Paringa Reserve, Balmain.

4.6 Item 6 Rezoning of land acquired by Council to Open Space

4.6.1 Proposed Amendment

This amendment proposes to rezone a number of sites that Council has acquired from 'Open Space to be Acquired' to 'Open Space'. Rezoning will also correct a mapping error associated with one of the sites

4.6.2 Site Description

The subject sites are outlined below:

Property Address	Legal Description	Current Zoning LEP 2000	Status	Map
(a) 27B Susan Street Annandale	Lot 2 DP 1041424	Open Space to be acquired	The rear of the property was obtained by dedication on redevelopment by the owners in 2002. Further condition on the consent requires the property owner to maintain the dedicated land until such time as Council acquires surrounding land. This is consistent with Leichhardt's developer Contributions Plan No 1 –Open Space and Recreation which identifies the acquisition of 23-45 Susan Street for the purposes of creating green corridor cycle way & pathway to Hogan Park.	See page 28
(b) 13 Hearn Street Leichhardt	Lot 1 DP 996961	Open Space to be acquired	The property was acquired in 2006 and is being leased as 3 residential flats with net rent paid to s.94 fund.	See page 29
(c) Wangal Nura Park 26-28 Myrtle Street (41 Flood Street) Leichhardt	Lots 46-54 Sec 2 DP 2829	Open Space to be acquired	The property was acquired in 2003, leased back to the former owner for 3 ¼ years with rent paid to s.94 Plan, improvements were demolished, site remediated, embellished as a park and opened to public in August 2008.	See pages 30-31
(d) Marr Reserve, 44A Cary Street (74-80 Excelsior Street) Leichhardt	Lot 1 DP 590330 Lot 2 Sec 9 DP 612	Open Space to be acquired	The properties were acquired in 2001, a landscape master plan was prepared in 2003-improvements were demolished, the site remediated, embellished as a park and opened to the public in March 2004.	See pages 32-33
	Lot 1 & 2 DP 600835	Residential	These two lots were incorrectly zoned Residential in the preparation of Leichhardt LEP 2000. Earlier zoning maps and property details confirm that the lots have always been apart of the park.	

4.6.3 Justification for Amendment

- Investigations have identified a number of properties currently zoned 'Open Space to be Acquired' under LEP 2000 that have since be purchased by Council.
- The amendment will ensure LEP 2000 reflects which land Council has purchased and which land it has still to acquire for open space.
- The amendment also provides the opportunity to rectify a mapping error associated with Marr Reserve that occurred during the preparation of LEP 2000.

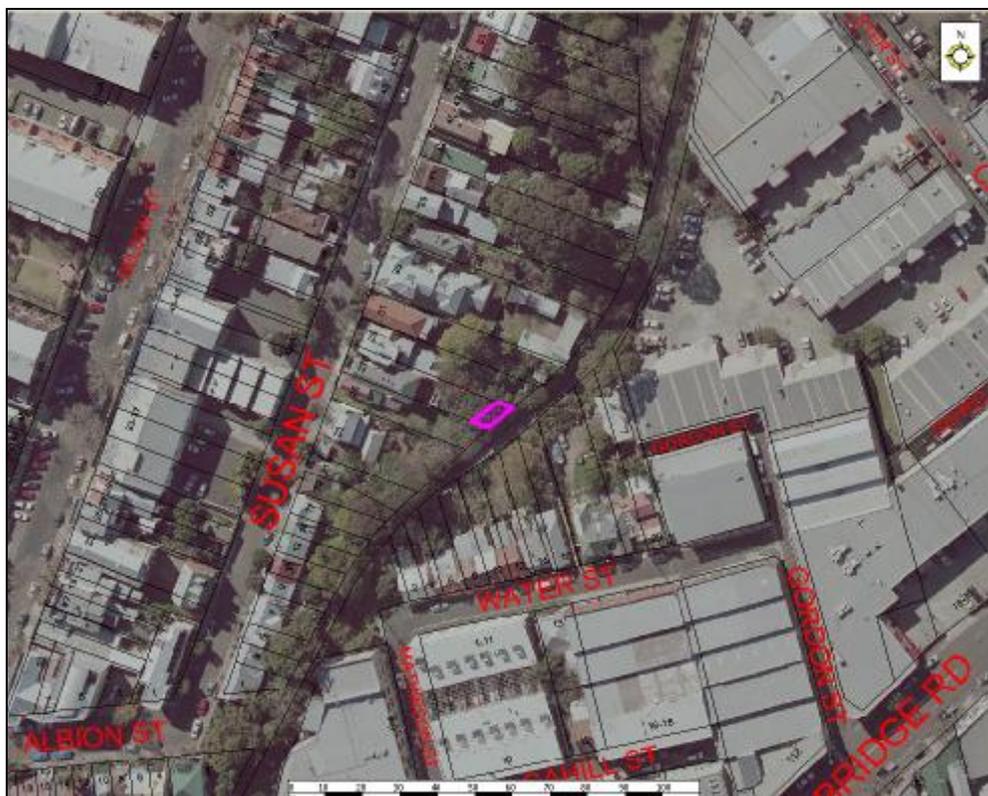
4.6.4 Recommendation

Amend the Land Zoning Map as follows; rezone the following parcels of land to 'Open Space' under the Leichhardt LEP 2000:

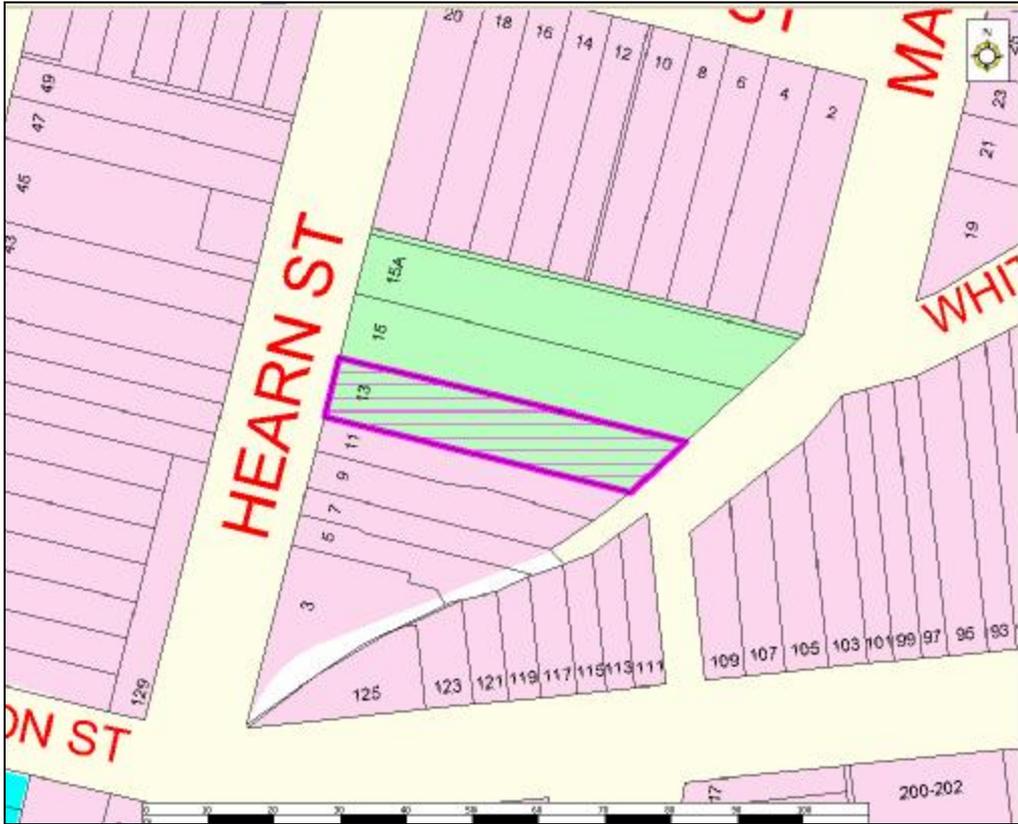
Property Address	Legal Description	Current Zoning LEP 2000
(a) 27B Susan Street, Annandale	Lot 2 DP 1041424	Open Space to be acquired
(b) 13 Hearn Street, Leichhardt	Lot 1 DP 996961	Open Space to be acquired
(c) Wangal Nura Park 26-28 Myrtle Street (41 Flood Street) Leichhardt	Lots 46-54 Sec 2 DP2829	Open Space to be acquired
(d) Marr Reserve, 44A Cary Street (74-80 Excelsior Street) Leichhardt	Lot 1 DP 590330 Lot 2 Sec 9 DP 612	Open Space to be acquired
	Lot 1 & 2 DP 600835	Residential

Refer to Attachment F – Planning proposal for the Rezoning of land acquired by Council to Open Space.

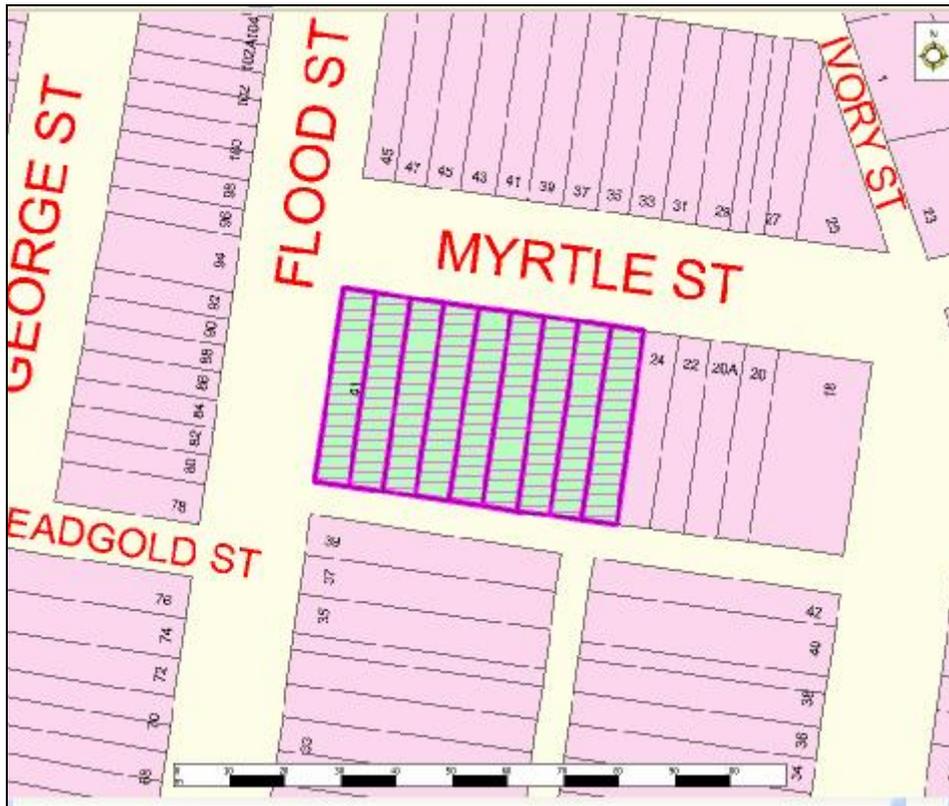
ITEM 6 (a) 27B Susan Street, Annandale



ITEM 6 (b) 13 Hearn Street, Leichhardt



ITEM 6 (c) Wangal Nura Park, 26-28 Myrtle Street
(41 Flood Street), Leichhardt



ITEM 6 (c) Wangal Nura Park, 26-28 Myrtle Street (41 Flood Street), Leichhardt

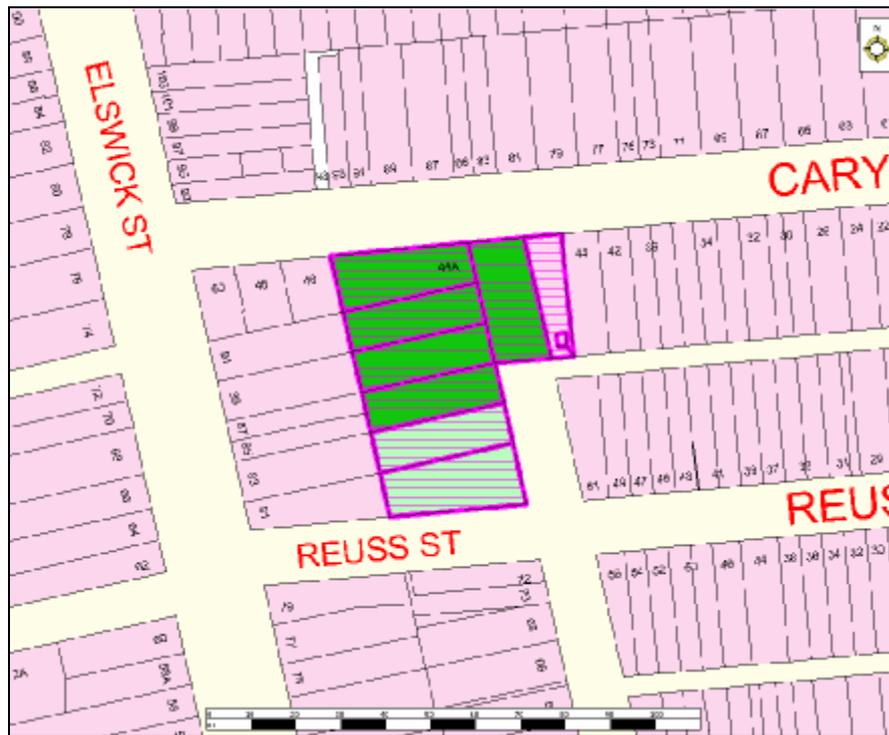


Wangal Nura Park, 26-28 Myrtle Street (41 Flood Street), Leichhardt – opening 23-08-2008



Wangal Nura Park, 26-28 Myrtle Street (41 Flood Street), Leichhardt – opening 23-08-2008

ITEM 6 (d) Marr Reserve, 44A Cary Street, Leichhardt



ITEM 6 (d) Marr Reserve, 44A Cary Street, Leichhardt



Leichhardt Planning Scheme Ordinance (PSO) 1979



Exhibited Draft Leichhardt LEP 1998

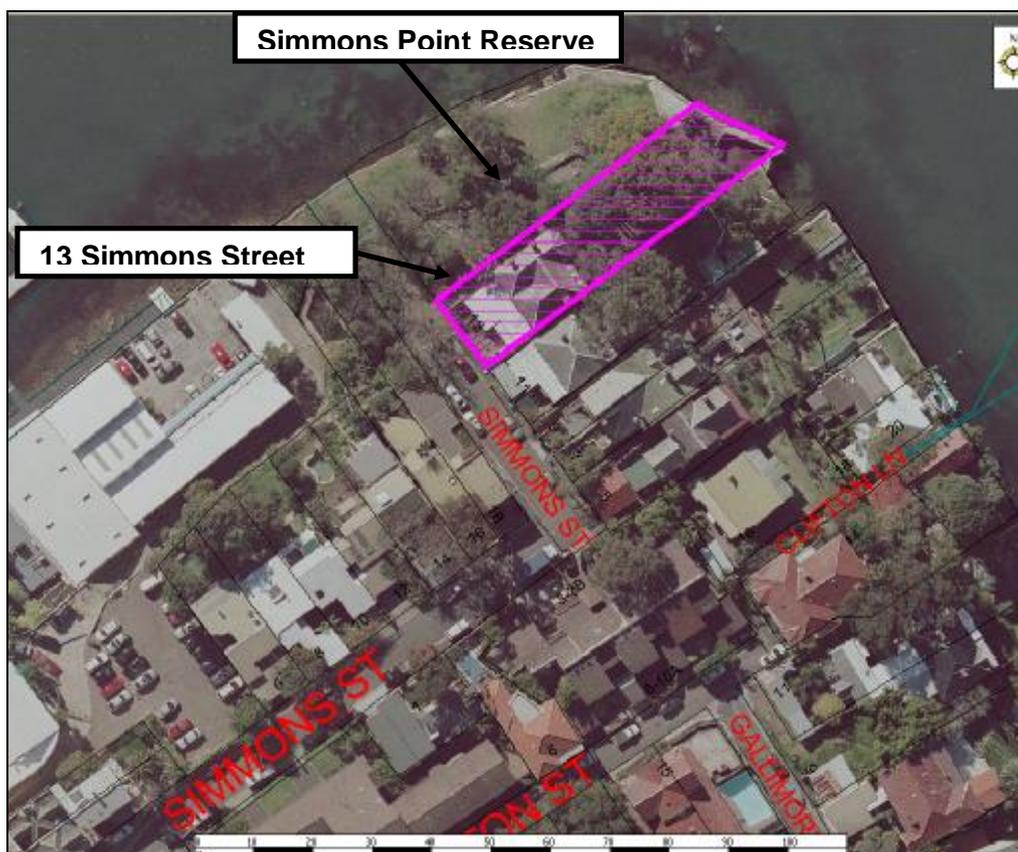
4.7 Item 7 13 Simmons Street, Balmain East

4.7.1 Proposed Amendment

This amendment proposes to rezone 13 Simmons Street (Lot 1 DP 562679) from 'Open Space' to 'Residential'.

4.7.2 Site Description

The subject site is 13 Simmons Street, Balmain East.





4.7.3 Justification for Amendment

- 13 Simmons Street is a residential dwelling and has been since 1884.
- In 2003 it was acknowledged by Council that the 'Open Space' zoning applied to 13 Simmons Street during the preparation of the LEP 2000 was a mapping error.
- A report was presented to the Planning Committee on the 10th July 2003; with the recommendation to rezone the property from 'Open Space' to 'Residential'.
- At the Ordinary Council Meeting of Council held on the 22nd July 2003 Council resolved to adopt the Planning Committees' recommendation:

The zoning of No.13 Simmons Street, Balmain East be altered from an 'Open Space' to 'Residential' Zone as part of the next available Leichhardt Local Environmental Plan (LEP) 2000 Amendment.

- However at this stage no further action has been taken by Council with regards to this resolution.
- This amendment is long awaited and is required immediately to correct a mapping error to rectify the unreasonable consequences of such zoning upon the property owners.

4.7.4 Recommendation

To rezone 13 Simmons Street (Lot 1 DP 562679) from 'Open Space' to 'Residential' under LEP 2000.

Refer to Attachment G – Planning Proposal for 13 Simmons Street, Balmain East.

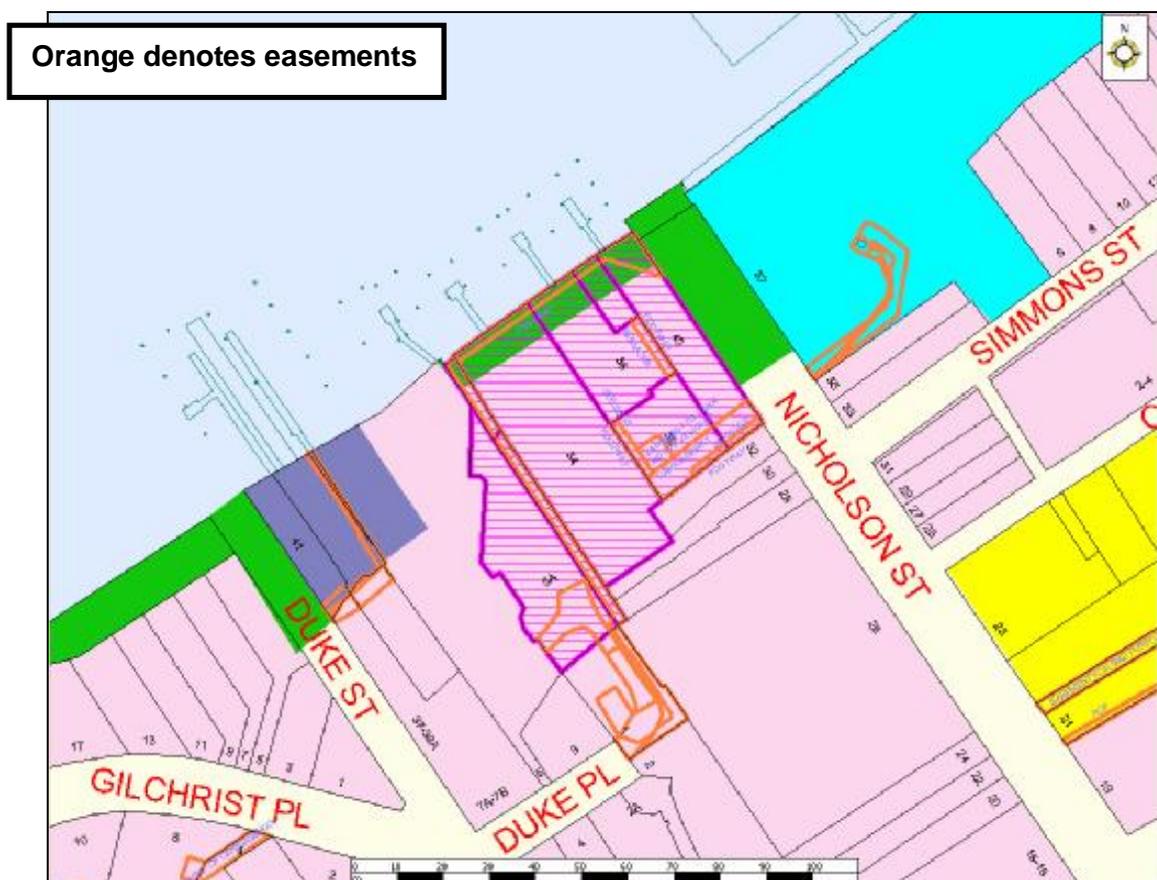
4.8 Item 8 34, 36, 38, 40 Nicholson Street & 5A Duke Place, Balmain

4.8.1 Proposed Amendment

The amendment proposes to rezone to *Residential* those portions of 34, 36, 38 & 40 Nicholson Street and 5A Duke Place that were incorrectly zoned 'Open Space' during the preparation of LEP 2000.

4.8.2 Site Description

The subject site includes the open space zoning applied to the waterfronts of 34, 36, 38 & 40 Nicholson Street and 5A Duke Place.





4.8.3 Justification for Amendment

- Council gained right-of-footway easements across the properties of 34, 36, 38 & 40 Nicholson Street and 5A Duke Place in the course of development applications for the sites. This was consistent with Council's objective of securing public access to the foreshore.
- Unlike a lease, an easement does not give Council possession of the property. The land is still owned by the private property owner; however, the public can be entitled to walk across it. Council cannot undertake embellishments to the right-of-footway (unless pre-negotiated into the terms of the right-of-footway, which did not occur in this case). The right-of-footway is registered on the title of the affected property and so continues even if the property is sold.
- During the preparation of the Leichhardt LEP 2000, a decision was made to rezone the right-of-footway along the waterfronts and another 5-10 metres of these properties 'Open Space'. The additional 5-10 metres was due to clause 26(5) of LEP 2000 – the application of which was originally thought would provide added flexibility for Council to undertake embellishments on the right-of-footway.
- Property owners were not consulted when rezoning of their properties took place and this was brought to Council's attention in 2003 however this issue has yet to be resolved.

- It has been clarified that the open space zoning applied to these properties does not expand the rights Council has under the terms of the right-of-footway. As mentioned, Council is unable to undertake any embellishment to the right-of-footway therefore the open space zoning was incorrectly applied.
- The consequence of the incorrect zoning is the imposition of additional and unreasonable limits on development for the owners of these private properties.

4.8.4 Recommendation

Rezone to '*Residential*' those portions of the following parcels of land incorrectly zoned open space under the Leichhardt LEP 2000.

Property Address	Legal Description
34 Nicholson Street	Lot 4 DP 624911
36 Nicholson Street	Lot 3 DP 706387
38 Nicholson Street	Part Lot 2 DP 706387
40 Nicholson Street	Lot 1 DP 624991
5A Duke Place	Lot 1 DP 514238

Refer to Attachment H – Planning proposal for 34-40 & 5A Duke Place, Balmain.

4.9 Item 9 2-8 Weston Street, Balmain

4.9.1 Proposed Amendment

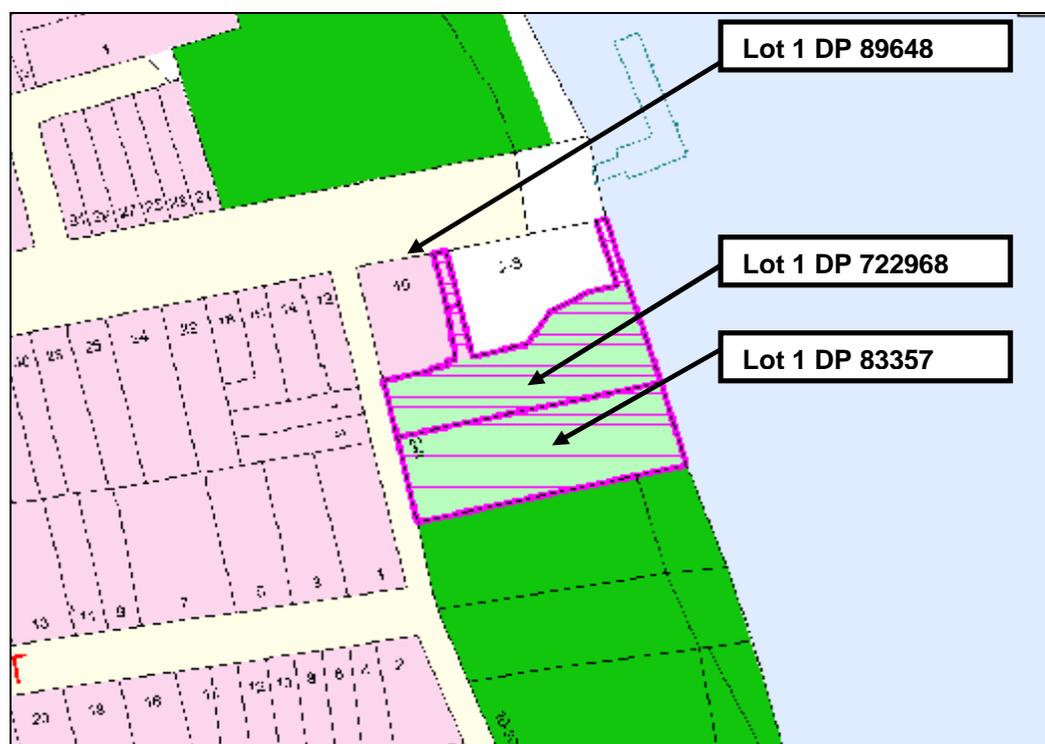
The amendment proposes to:

- rezone 2-8 Weston Street from '*Open Space to be acquired*' to '*Open Space*' as the land was acquired by Council in 2004 (this will also correct a mapping error associated with the site); and
- reclassify the land from community land to operational land in order to facilitate the restoration, adaptive reuse of the state listed heritage item (Stone Building/Fenwick & Co Boat Store) in accordance with the adopted plan of management. The reclassification would provide Council with the option of granting a longer term lease of the land than permissible for community land.

As the matter relates to the reclassification of public land it is proposed that Council contact nearby residents to advise them of Councils intentions relating to this item.

4.9.2 Site Description

The subject site is 2-8 Weston Street, Balmain East.



4.9.3 Justification for Amendment

Rezoning

- The property known as 2-8 Weston Street Balmain (Lot 1 DP 89648, Lot 1 DP722968 & Lot 1 DP83357) was compulsorily acquired by Council on the 30th July 2004 by notice of published in the Government Gazette.
- The amendment also provides the opportunity to rectify a mapping error occurred during the preparation of LEP 2000 (refer to Table below)

The Table outlines the mapping error associated with 2-8 Weston Street

Property Address	Legal Description	Current Zoning LEP 2000	Status
2-8 Weston Street Balmain	Lot 1 DP 83357	Open Space to be acquired	The property was compulsory acquired in 2004. A park plan of management was prepared in 2008 and works are progressing.
	Lot 1 DP 722968	Open Space to be acquired	During the preparation of the LEP 2000 separate portions of the lot were incorrectly zoned residential (approx. 23 m ²) and left unzoned (approx. 21m ²).
		Residential	
Unzoned			

	Lot 1 DP 89648	Residential	During the preparation of the LEP 2000 this lot was incorrectly zoned residential (approx 22m ²)
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Reclassification

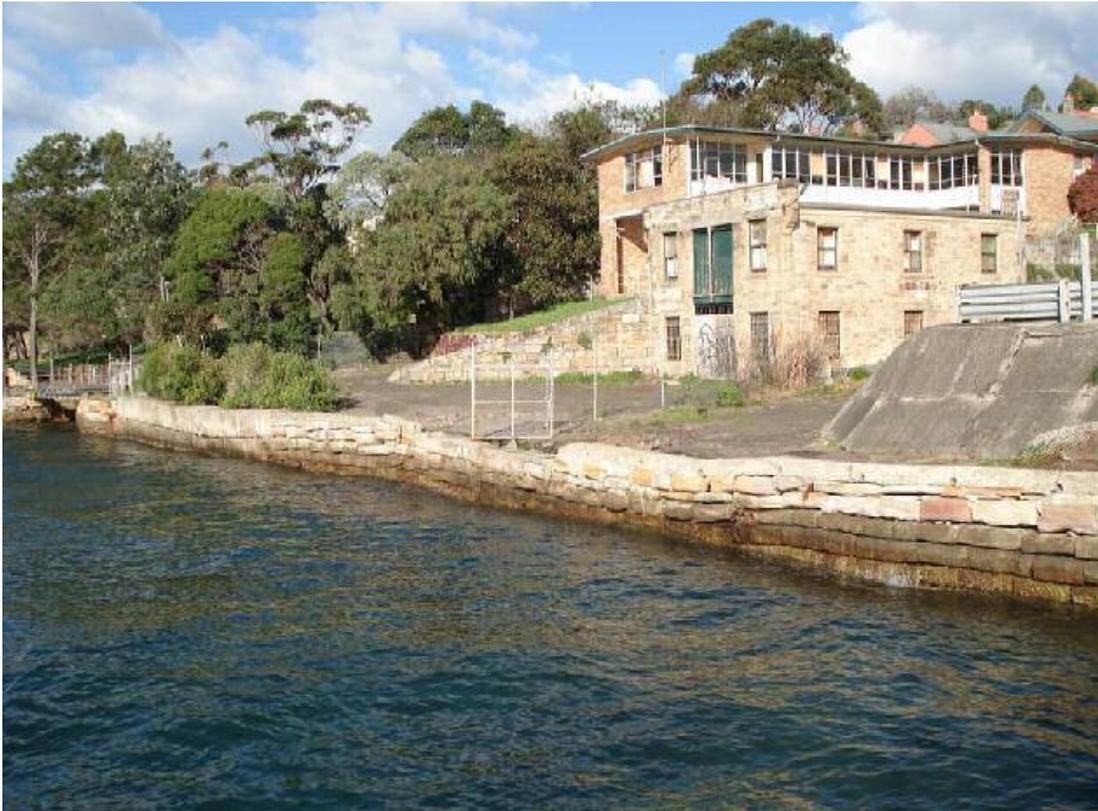
- The Local Government Act imposes strict limits & controls on the lease of community land. The estimated cost of restoring the stone building and adapting it to the use/s approved under the adopted plan of management exceed \$1M.
- In the absence of federal government funding for the restoration, one option to enable the work to be done sooner rather than later, without taking Council funds from much need projects in other suburbs, would be to offer (by tender or expression of interest) the building and curtilage on a long term lease.
- The lease would require the restoration work to be done in accordance with the adopted Conservation Management Plan and the use to be approved by Council via a DA.
- The community involvement in the site will not be affected by the reclassification given their role in the adoption of the current plan of management and any future DAs for works or use of the building.
- The community will not doubt welcome being able to use and enjoy the refurbished building rather than the parlous state of the building now.

4.9.4 Recommendation

- To amend the Land Zoning Map as follows: to rezone 2-8 Weston Street, Balmain East (Lot 1 DP 722968, Lot 1 DP 89648, and Lot 1 DP 83357) ‘*Open Space*’.
- To amend the Leichhardt LEP 2000 Table of Classification and Reclassification of Public Land as Operational Land to include 2-8 Weston Street (Lot 1 DP 722968, Lot 1 DP 89648, Lot 1 DP 83357) reclassified from community land to operational land pursuant Local Government Act 1993.
- Exhibit the draft plan consistent with LEP practice note “Classification and reclassification of public land through a local environmental plan” (PN 09–003).

Note: The proposed Council resolution directs that staff inform local residents of the details of Councils proposal to reclassify land at Paringa Reserve, Balmain.

Refer to Attachment I – Planning proposal for 2-8 Weston Street, Balmain.



2-8 Weston Street, Balmain



Stone Building at 2-8 Weston Street, Balmain

5.0 Summary/Conclusions

This report presents proposed amendments to the Leichhardt LEP 2000. The intent of the amendments is to address mapping errors, zoning and land classification anomalies as well as inconsistencies between schedules and maps.

These amendments have been expedited ahead of the preparation of the new Comprehensive LEP so as to reduce Council's exposure to potential litigation, enable Council to resolve outstanding lease arrangements and remove unreasonable impediments on property owners.

This report seeks a council resolution to endorse the 'Planning Proposal' for the proposed Housekeeping Amendments to the LEP 2000, made in accordance with the new Gateway plan-making process of the EP&A Act 1979 so that it can be forwarded to the Minister of Planning for determination.

List of Attachments

A	Planning proposal for 119 Renwick St., Leichhardt.
B	Planning proposal for 701-703 Parramatta Road, Leichhardt.
C	Planning proposal for 14 Hathern Street, Leichhardt.
D	Planning proposal for 29 & 31 William Street, Balmain East
E	Planning proposal for 107 Elliot Street (Pellegrini's) & Paringa Reserve, Balmain.
F	Planning proposal for the Rezoning of land acquired by Council to Open Space
G	Planning Proposal for 13 Simmons Street, Balmain East.
H	Planning proposal for 34-40 & 5A Duke Place, Balmain.
I	Planning proposal for 2-8 Weston Street, Balmain