

ATTACHMENT I

HOUSEKEEPING AMENDMENTS TO LEICHHARDT LEP 2000

**Attachment I – PLANNING PROPOSAL
ITEM 9
2- 8 WESTON STREET, BALMAIN**

Part 1 – Objectives or Intended Outcomes

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) (refer to Appendix 1 & 2); 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.

Part 2 – Explanation of the Provisions

- 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) to ‘*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) 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), (refer to Appendix 3).

Part 3 – Justification

Section A – Need for planning proposal

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

No, the planning proposal is a result of recommendations from Councils Legal Services Manager and Senior Parks and Open Space Planner in accordance with the adopted plan of management.

The rationale is discussed as follows:

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 Appendix 2).

Reclassification

- The Local Government Act imposes strict limits & controls on the lease of community land. The estimated cost of restoring the state heritage listed 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.

For more information refer to Appendix 3 and the Council Report *"Housekeeping Amendments to Leichhardt LEP 2000"*.

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

The proposal involves statutory amendments to the Leichhardt LEP 2000 therefore it is considered that the planning proposal is the best way of achieving the intended outcomes and objectives.

3. *Is there a net community benefit?*

As discussed, the proposal will facilitate the restoration and adaptive reuse of the state listed heritage item – Stone Building/Fenwick & Co Boat Store. Furthermore, the amendment will ensure LEP 2000 identifies that the land has been purchased by Council and which land it has still to acquire for open space.

Section B – Relationship to strategic planning framework.

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

The Planning Proposal is consistent with the *Inner West Draft Subregional Strategy* particularly with the following actions:

- *Improve access to waterways and links, between bushland, parks and centres*
- *Improve the quality of local open spaces*
- *Interpret and promote Sydney's cultural heritage*

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

The planning proposal is consistent with the following objectives of Council's Community Strategic Plan *'Leichhardt 2020+'*:

1.3 *"Engage and connect all local people, people with special needs, businesses and institutions to build our community";*

2.4 *"Plan local community facilities, businesses and services to fit the places we live and the way we want to live";*

3.2 *“Develop a clear consistent and equitable planning framework and process that enables people to develop our area according to a shared vision for the community” and*

4.3 *“Protect, restore and enhance our natural environment and native biodiversity within the urban context”.*

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

The planning proposal is consistent with State Environmental Planning Policies (refer to Appendix 4 & 5).

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

The planning proposal is consistent with Section 117 Directions (refer to Appendix 6).

Section C – Environmental, social and economic impact

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

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

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

The proposal being of minor significance will not have any environmental effects. Where future development applications are lodged a full merit assessment of environmental effects will be made at the time.

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

Given the nature of the proposal it is not expected that the proposal will have any social or economic effects, other than those previously mentioned.

Section D – State and Commonwealth interests

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

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

12. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

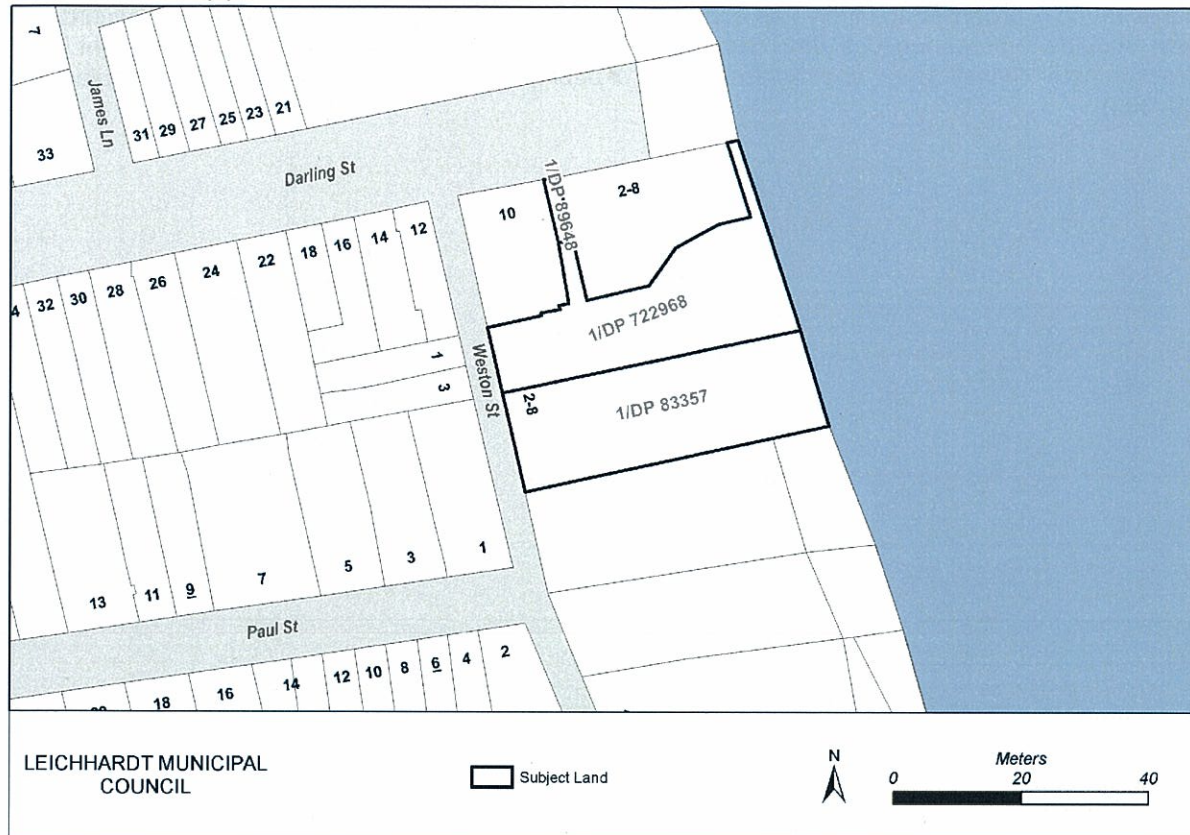
Consultation has not been carried out at this stage. This section of the planning proposal is completed following the gateway determination which identifies which State and Commonwealth Public Authorities are to be consulted.

Part 4 – Community Consultation

This component of the Housekeeping LEP involves a reclassification of public land; community consultation is proposed to involve an exhibition period of 28 days and a public hearing in accordance with *"A guide to preparing local environmental plans"*. Additionally, it will be exhibited consistent LEP practice note *"Classification and reclassification of public land through a local environmental plan"* (PN 09-003).

Appendix 1:

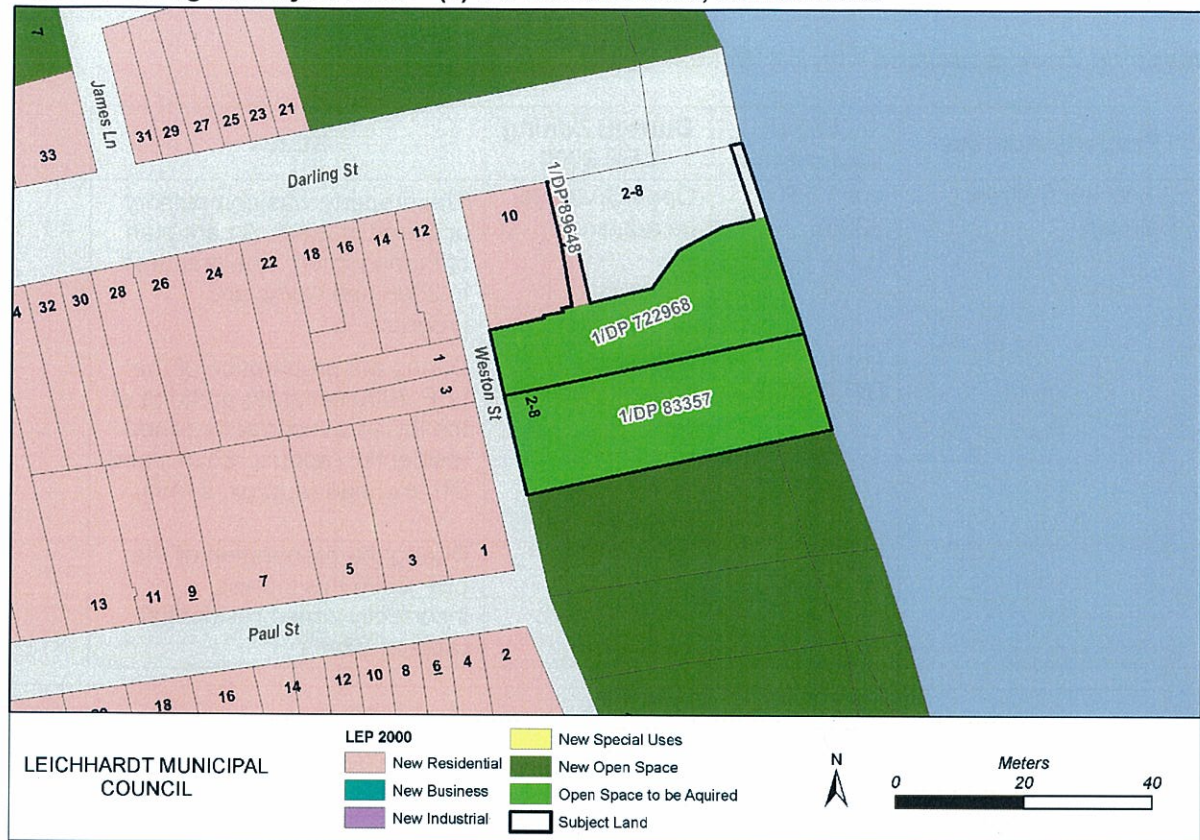
Subject Land – (e) 2-8 Weston Street, Balmain East



Aerial view of Subject Land – (e) 2-8 Weston Street, Balmain East



Current Zoning of Subject Land – (e) 2-8 Weston Street, Balmain East



Appendix 2:**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 Residential	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).
	Lot 1 DP 89648	Unzoned Residential	During the preparation of the LEP 2000 this lot was incorrectly zoned residential (approx 22m ²)

Appendix 3: Reclassification General Requirements (PN 09-003)

The following statements respond to the requirements for the reclassification of 2-8 Weston Street, Balmain under the *Environmental Planning & Assessment Act 1979* (PN 09-003)

- ***Reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal***

The planning proposal will facilitate the restoration and adaptive reuse of the state listed heritage item (Stone Building/Fenwick & Co Boat Store) to make the facility a functional asset within the East Balmain Foreshore area, by permitting a long term lease which will mean that a tenant can be secured who will fund the restoration works. Furthermore, the amendment will ensure LEP 2000 identifies that the land has been purchased by Council for open space and will be retained.

The reclassification is not a precursor to sale or alienation from public use but rather to bring forward the completion of the restoration works to enable the building to be used by the community.

- ***The current and proposed classification of the land***

2-8 Weston Street, being Lot 1 DP 89648, Lot 1 DP 722968 and Lot 1 DP 83357 is currently classified as community land. The proposal is to reclassify to operational pursuant to the *Local Government Act 1993*. It is necessary that the entire site be reclassified as the curtilage of the building extends across the two main lots (Lot 1 DP 722968 and Lot 1 DP 83357). Furthermore it ensures consistency of planning provisions across the site.

- ***The reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements***

The Local Government Act imposes strict limits and controls on the lease of community land including a maximum term of 21 years. The estimated cost of restoring the state heritage listed 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. It is expected that the community welcome being able to use and enjoy the refurbished building rather than the parlous state of the building now.

The planning proposal is consistent with the following objectives of Council's Community Strategic Plan '*Leichhardt 2020+*':

1.3 "Engage and connect all local people, people with special needs, businesses and institutions to build our community";

2.4 "Plan local community facilities, businesses and services to fit the places we live and the way we want to live";

3.2 "Develop a clear consistent and equitable planning framework and process that enables people to develop our area according to a shared vision for the community" and

4.3 "Protect, restore and enhance our natural environment and native biodiversity within the urban context".

- ***Council's ownership of the land, if this applies***

Council is the owner of 2-8 Weston Street being Lot 1 DP 89648, Lot 1 DP 722968 and Lot 1 DP 83357.

- ***The nature of council's interest in the land***

Leichhardt Council owns the land in fee simple and is the registered proprietor of the land.

- ***How and when the interest was first acquired***

This property was acquired by Council on the 30th July 2004 by way of notice published on that day in the NSW Government Gazette for the compulsory acquisition of the land for public open space.

- ***The reasons council acquired an interest in the land***

The land was compulsorily acquired by Council for public open space, with the site identified as a key location to provide public access along the harbour between Illoura Reserve and Darling Street Wharf and Thornton Park. It was also the intention to restore the heritage building for adaptive re-use for a purpose which would allow some public access or viewing.

- ***Any agreements over the land together with their duration, terms, controls, agreement to dispose of the land***

There are no agreements over the land.

- ***An indication of the magnitude of any financial gain or loss from the reclassification and the types of benefit that could arise***

The aim of the proposed reclassification is to facilitate the restoration and adaptive reuse of the state listed heritage item (Stone Building/Fenwick & Co Boat Store). The estimated cost of restoring the state heritage listed stone building and adapting it to the use/s approved under the adopted plan of management exceed \$1M. That use will be one that allows public access to the building.

Council does not have federal government funding for the restoration of the stone building and at present works are slowly progressing. The reclassification would provide Council with the option of granting a longer term lease of the land than permissible for community land in exchange for the restoration of the building. This would enable the work to be done sooner rather than later, without taking Council funds from much need projects in other suburbs.

Once the land is operational, Council will be able to offer (by tender or expressions of interest) the building and curtilage on a long term lease. The financial gain to Council will be the costs of up to \$1M paid by the lessee, rather than Council, to restore the heritage building and allow it to be accessed by the public. In the future, Council will receive market rent for the restored building either from the original lessee or another, but this will be a long time in the future due to usual commercial practice of granting the lease at nominal rent for some years in exchange for the restoration work and the lessee needing to recoup the restoration costs.

- ***The asset management objectives being pursued, the manner in which they will be achieved***

The aim of the proposed reclassification is to facilitate the restoration and adaptive reuse of the state listed heritage item (Stone Building/Fenwick & Co Boat Store). Currently Council is unable to fund the restoration of the building. Reclassification will provide Council with the option of granting a lease of the building longer than 21 years in exchange for the restoration of the building. The restoration work will be done in accordance with the adopted Conservation Management Plan and the use is required to be approved by Council via a DA. This would enable the work to be done sooner rather than later, without taking Council funds from much needed projects in other suburbs.

Once the land is operational, Council will be able to offer (by tender or expression of interest) the building and curtilage on a long term lease which will bring about the restoration of the heritage building and allow it to be accessed by the public.

- **Whether there has been an agreement for the sale or lease of the land**

No, there is no agreement for the sale or lease of the land and no intention to sell the land. As stated above, once the land is operational Council will invite expressions of interest for a long term lease of the state listed heritage item – Stone Building/Fenwick & Co Boat Store & curtilage.

Appendix 4: Consideration of State Environmental Planning Policies (SEPPs)
Consideration of State Environmental Planning Policies (SEPPs)

SEPP Title	Applicable	Consistent	Reason for inconsistency
1. Development Standards	No	N/A	
4. Development without Consent and Miscellaneous Complying Development	Yes	Yes	
6. Number of Storeys in a Building	No	N/A	
14. Coastal Wetlands	No	N/A	
15. Rural Landsharing Communities	No	N/A	
19. Bushland in Urban Areas	Yes	Yes	
21. Caravan Parks	No	N/A	
22. Shops and Commercial Premises	No	N/A	
26. Littoral Rainforests	No	N/A	
29. Western Sydney Recreation Area	No	N/A	
30. Intensive Agriculture	No	N/A	
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A	
33. Hazardous and Offensive Development	No	N/A	
36. Manufactured Home Estates	No	N/A	
39. Spit Island Bird Habitat	No	N/A	
41. Casino Entertainment Complex	No	N/A	
44. Koala Habitat Protection	No	N/A	
47. Moore Park Showground	No	N/A	
50. Canal Estate Development	No	N/A	
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A	
53. Metropolitan Residential Development	No	N/A	
55. Remediation of Land	Yes	Yes	
59. Central Western Sydney Regional Open Space and Residential	No	N/A	
60. Exempt and Complying Development	No	N/A	
62. Sustainable Aquaculture	No	N/A	
64. Advertising and Signage	No	N/A	
65. Design Quality of Residential Flat Development	No	N/A	
70. Affordable Housing (Revised Schemes)	No	N/A	
71. Coastal Protection	No	N/A	
SEPP Affordable Rental Housing 2009	No	N/A	
SEPP Building Sustainability Index: BASIX 2004	No	N/A	
Exempt and Complying Development Codes) 2008	No	N/A	
Housing for Seniors or People with a Disability 2004	No	N/A	
SEPP Infrastructure 2007	Yes	Yes	
SEPP Kosciuszko National Park – Alpine Resorts 2007	No	N/A	
SEPP Major Development 2005	Yes	Yes	
SEPP Mining, Petroleum Production and Extractive Industries 2007	No	N/A	
SEPP Rural Lands 2008	No	N/A	
SEPP Sydney Region Growth Centres 2006	No	N/A	
SEPP Temporary Structures and Places of Public Entertainment 2007	Yes	Yes	
SEPP Western Sydney Employment Area 2009	No	N/A	
SEPP Western Sydney Parklands 2009	No	N/A	

Appendix 5:**Consideration of deemed State Environmental Planning Policies (SEPPs)
(former Regional Environmental Plans (REPs))**

REP Title	Applicable	Consistent	Reason for Inconsistency
5. Chatswood Town Centre	No	N/A	
8. Central Coast Plateau Areas	No	N/A	
9. Extractive Industry (No 2—1995)	No	N/A	
11. Penrith Lakes Scheme	No	N/A	
13. Mulgoa Valley	No	N/A	
16. Walsh Bay	No	N/A	
17. Kurnell Peninsula (1989)	No	N/A	
18. Public Transport Corridors	No	N/A	
19. Rouse Hill Development Area	No	N/A	
20. Hawkesbury-Nepean River (No 2—1997)	No	N/A	
24. Homebush Bay Area	No	N/A	
25. Orchard Hills	No	N/A	
26. City West	No	N/A	
28. Parramatta	No	N/A	
29. Rhodes Peninsula	No	N/A	
30. St Marys	No	N/A	
33. Cooks Cove	No	N/A	
SREP Sydney Harbour Catchment 2005	Yes	Yes	

Appendix 6:

Consideration of Ministerial Directions

s.117 Direction Title	Applicable	Consistent	Reason for Inconsistency
1. Employment & Resources			
1.1 Business and Industrial Zones	No	NA	
1.2 Rural Zones	No	NA	
1.3 Mining, Petroleum Production and Extractive Industries	No	NA	
1.4 Oyster Aquaculture	No	NA	
1.5. Rural lands	No	NA	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Yes	Yes	
3.2 Caravan parks	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use & Transport	No	N/A	
3.5 Development near licensed aerodromes	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	No	N/A	
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	No	N/A	
4.4 Planning for Bush Fire Protection	No	N/A	
5. Regional Planning			
5.1 Implementation of Regional Strategies	No	N/A	
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significant on the NSW Far North Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	
6.2 Reserving Land for Public Purposes	Yes	Yes	
6.3 Site Specific Provisions	Yes	Yes	
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Yes	Yes	