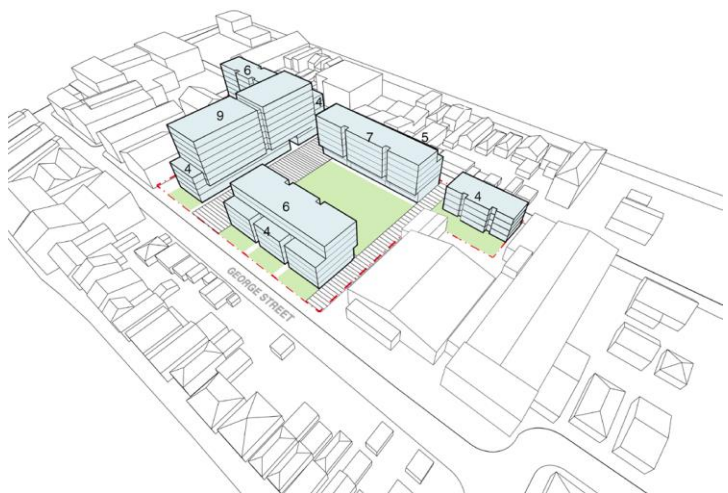
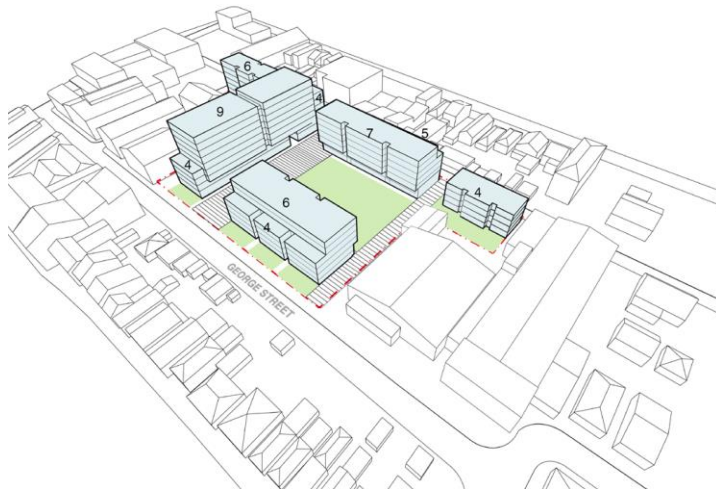


a submission to the
joint regional planning panel
by
leichhardt council



22 george street, leichhardt

submission to the joint
regional planning pannel



22 george street, leichhardt
the 'kolotex' site

prepared for

Leichhardt Council



prepared by

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Executive Summary

Leichhardt Council commissioned Willana Associates Pty Ltd (Willana) to provide an independent appraisal of Development Application D/2014/312, 22 George Street, Leichhardt (the Site). The proposal is for site preparation works (including diversion of services, remediation, demolition of existing structures and excavation) and construction of a mixed use development of five (5) buildings of four (4) to nine (9) storeys in height. The buildings shall comprise two (2) commercial tenancies and 288 residential units above a basement car park containing 272 parking spaces, an additional three (3) at-grade parking spaces, associated landscaping and public domain works.

The planning regime governing the Site, has been imposed by the Department of Planning and Infrastructure (now the Department of Planning and Environment), through the Planning Proposal and Gateway determination processes. These planning documents include:

- amendment to Leichhardt Local Environmental Plan 2013 to rezone the Site from IN2 – Light Industrial to Part B4 – Mixed Use and Part R3 – Medium Density
- Site Specific Development Control Plan (George & Upwards Streets, Leichhardt DCP 2014)
- Voluntary Planning Agreement limiting the affordable housing component to seven (7) dwellings, i.e. just 2.4% of the overall total dwelling numbers

Throughout the rezoning process, Leichhardt Council consistently expressed concern regarding the size and composition of the proposed development at the Site (and the adjoining Labelcraft site to the north) and its resulting amenity impacts on surrounding residents.

This submission demonstrates that the development, as proposed, has a number of significant issues, which prevent the granting of development consent. Importantly, the submission has the benefit of input from Councillors in respect to matters that are continually affecting the community.

Leichhardt Councillors object to the proposal for the following reasons:

- **Contamination:** The Site is contaminated. The applicant's Remediation Action Plan is inadequate. This is a threshold issue. As there is no certainty that the Site can be remediated for the proposed residential use of the land, development consent cannot be granted.

- **Inadequate employment generation opportunities as a result of limited commercial floorspace proposed:** The amount of commercial space proposed is inadequate and fails to achieve the projected employment figures that were the basis of rezoning of the Site.
- **Inadequate affordable rental housing proposed:** The proposal is not consistent with Leichhardt Affordable Housing Strategy (2011), which seeks a 10% affordable housing contribution.
- **The proposal fails against the design principles of SEPP 65:** The proposal fails in terms of its urban design and its architectural merit. The bulk and scale of the development is inappropriate for the location, given the nature of the surrounding development. The presentation to the public domain, is inconsistent with the character of the area and results in unacceptable amenity impacts.
- **Failure to achieve objectives of the zone:** The development fails to achieve the objectives of the B4 - Mixed Use and R3 – Medium Density Residential zones and as a result should not be approved.
- **Failure to achieve the objectives of the Site Specific DCP applying to the Site:** Solar Access, Building Design and Privacy impacts are a number of key issues where the proposal fails.
- **Traffic and Parking:** The traffic and parking impacts on the surrounding streets and intersections is considered to be unacceptable. The Applicant has provided inadequate modelling and has not taken into account scenarios where the commercial floor space is increased or the unit mix is changed.

1 introduction

1.1 The Proposal

This application seeks consent for the Site preparation works (including diversion of services, remediation, demolition of existing structures and excavation) and construction of a mixed use development of five (5) buildings of four (4) to nine (9) storeys in height. The buildings shall comprise two (2) commercial tenancies and 288 residential units above a basement car park containing 272 parking spaces, an additional three (3) at grade parking spaces, associated landscaping and public domain works at 22 George Street, Leichhardt (the Site).

1.2 The Site

The Site is located in Leichhardt, in the south-western corner of the Leichhardt Local Government Area and comprises the land at 22 George Street, Leichhardt (known as the 'Kolotex' site). The lots that form the Site are listed in the table below. The applicant has advised that the lots listed are currently in the process of consolidation.

Lot	Deposited Plan
Lots 6 – 9	DP 79950
Lot B	DP 327352
Lots 1 – 2	DP 102461
Lots 10 – 13	DP 83665
Lot 1	DP 104359
Lot 1	DP 1108695
Lot 5	DP 1080665
Lot 15	DP 1081840

The Site has an area of approximately 1.013ha and is bound by the Labelcraft site to the north; part of McAleer Street to the south; George Street and Upward Streets to the east and west.

The Site contains one (1) to three (3) storey, brick and concrete factory, warehouse and office facilities, approximately 40-50 years old that were formerly used for the manufacture of clothing. Some of the Site's buildings are in poor condition and in a state of disrepair. A number of the buildings are also vacant.

The Site is surrounded by R3 – Medium Density Residential zoned land to the north; R1 – General Residential zoned land to the east and west, characterised by predominately 1920s one and two storey detached dwellings, and IN2- Light Industrial land to the south.

1.3 Background Information

There is a detailed history associated with the recent rezoning of the Site from IN2 – Light Industrial to its current zoning part B4 – Mixed Use and part R3 – Medium Density Residential. The initial Planning Proposal for the Site was lodged in 2006 when the first rezoning application was submitted to Council. The gazettal of the amendment to Leichhardt Local Environmental Plan 2013, in March 2014, was based on the subsequent, January 2012 Planning Proposal (which included the Labelcraft site to the north of the Kolotex Site). It is noted that one of the underlying themes throughout the history of the rezoning of the Site was the need to address the loss of employment lands. This was a requirement of both Council and the NSW Department of Planning and Infrastructure (the Department). This is an important consideration in the assessment of the current Development Application for the Site.

In 2013, the Minister directed the Director General of Planning to be the relevant Planning Authority for the January 2012 Planning Proposal. Gateway determination was issued and amendments to Leichhardt Local Environmental Plan 2013 were gazetted in March 2014 rezoning the Site and the Labelcraft site from IN2 – Light Industrial to part B4 – Mixed Use and part R3 – Medium Density Residential, with associated maximum floor space ratio of (2.15:1) and maximum building height requirements of (32m).

The Department's support for the rezoning was predicated on the mixed use complement of the Site generating employment in order to address concerns relating to the loss of employment lands. The January 2012 Planning Proposal projected that the rezoning would generate an estimated 125 direct jobs and 238 indirect ongoing jobs during the operational phase of the development. It is noted that the January 2012 Planning Proposal included 1300m² of ground floor commercial uses.

The current Development Application has significantly scaled back employment generating land uses. The building, as proposed, incorporates two (2) retail tenancies, with a combined area of 175m², located on the ground floor adjacent to the George Street vehicle entry and paved shared-zone. The two (2) retail tenancies are likely to generate only a handful of jobs, depending on the final uses.

It is important that this historical context is not lost in the assessment of the application and that the objectives for the Site; the amending Local Environmental Plan and Site-Specific Development Control Plan 2014, processes are not lost in the resolution of future development for the Site.

2 the issues

Willana has undertaken an assessment of the documentation, provided to Council, as part of the Development Application. As a result of this process, a number of issues relating to the development have been identified. The most critical issue being the contamination of the Site, and the Applicant's Remediation Action Plan, which is considered to be inadequate. As a result, there is no certainty that the Site can be developed for residential and mixed use purposes. This is a threshold issue. As outlined in Section 2.1 below, as there is no certainty in relation to the contamination issue, the development cannot be approved.

This Report also identifies other issues that are unable to be resolved without significant changes to the scheme. The identification of the areas of concern in this submission are, in many instances, further supported by the technical assessments being undertaken by Council officers and advisors as part of the development assessment process.

2.1 Threshold Issue - Contamination

Ryall Environmental Pty Limited Independent Assessment

Dr Bill Ryall, Director Ryall Environmental Pty Limited, a remediation expert was engaged by Council to provide an independent assessment of the adequacy of the applicant's Remediation Action Plan for the Site. Dr Ryall's assessment raised numerous, significant, concerns relating to the contamination of the Site and whether the Site can be adequately remediated to ensure that the Site is suitable for residential purposes.

The Site is contaminated. Of particular concern is that there is evidence that Volatile Chlorinated Hydrocarbons have been found in groundwater at two monitoring wells at the Site (as stated in the applicant's Remediation Action Plan). According to Dr Ryall's report, Volatile Chlorinated Hydrocarbons belong to a class of compounds that are recognised to be hazardous to human health. Some Volatile Chlorinated Hydrocarbons are known human carcinogens.

Volatile Chlorinated Hydrocarbons are referred to as Dense Non-aqueous Phase Liquids (DNAPLs). Dr Ryall's report includes:

DNAPLs are denser than water, sparingly soluble in water and can persist for long periods of time in groundwater. The DNAPLs in groundwater from Site are also odorous. DNAPLs are one of the most troublesome compounds to identify in site investigation programs and to remediate

because the source/s are commonly difficult to identify and small quantities can give rise to significant contamination of groundwater and are persistent in the environment. Because DNAPLs are denser than water they can migrate deep into the water column until a barrier is reached.

The concentration of Volatile Chlorinated Hydrocarbons found in the groundwater at the Site are considered to be significant, as set out in Table 4-3 of the applicant's Remediation Action Plan and is extracted below from Dr Ryall's report:

Volatile Chlorinated Hydrocarbons	Concentration in groundwater identified in BH307 (µg/L)	Trigger value for protection of the environment* (µg/L)
Tetrachloroethene	6200	70
Trichloroethene	1200	700
Dichloroethene	1400	330**
Monochloroethene (vinyl chloride)	210	100
Chlorobenzene	300	55
1,2,4-trimethylbenzene	43	15***
1,4-dichlorobenzene	110	60
1,2-dichlorobenzene	970	160

* ANZECC (2000) Water Quality Guidelines.

** Note Table 4-3 of the RAP listed 700 µg/L as the trigger value, which appears to be incorrect.

*** Trigger value stated in the RAP to have been adopted by EIS.

The above table indicates that the concentrations of Volatile Chlorinated Hydrocarbons greatly exceed the trigger values for the protection of marine ecosystems. Hawthorne Canal is located approximately 250m to the west of the Site. Dr Ryall's report states that consequently, in consideration of the regional topography, groundwater on the Site would be expected to flow in a generally westerly direction from the Site to Hawthorne Canal.

According to Dr Ryall's report, Tetrachloroethene (the first compound listed in the table above), is a compound commonly used as a dry cleaning fluid and as a cleaning agent for metals (including equipment used in printing plants). Trichloroethene (the second compound in the table above) is a compound commonly used as a cleaning agent for metals and is also found, along with dichloroethene and vinyl chloride, as a natural degradation product of tetrachloroethene in the environment. The applicant's Remediation Action Plan identified at Section 4.3 that the Labelcraft site, situated to the north of the Site, had historically been used for a "...variety of industries including a chemical company, dry cleaning and printing".

It is therefore likely that the source of the Volatile Chlorinated Hydrocarbons, contaminating the ground water at the Site, is potentially not located on the subject site, but from the Labelcraft site to the north. In order to address the contamination of the Site, remediation must occur to the Labelcraft Site, which does not form part of the subject Development Application and is under separate ownership from the Site. Consequently, the potential source of the contamination cannot be addressed under the current Development Application.

In addition, Dr Ryall's report includes that:

Notwithstanding that the source of the Volatile Chlorinated Hydrocarbons may be on the adjacent Labelcraft site, it is envisaged that Volatile Chlorinated Hydrocarbons in groundwater within the sandstone bedrock on the Site would probably need to be remediated to ensure these substances do not migrate from the Site in groundwater and do not infiltrate as vapours and/or dissolved in groundwater into built structures.

Dr Ryall concludes:

The RAP has been based on results reported in environmental investigation programs by EIS, but the RAP did not demonstrate the results were sufficiently comprehensive and reliable to be used to identify appropriate remediation option/s.

In my opinion, the RAP has not been completed in accordance with guidelines endorsed by the EPA because the RAP has not appropriately determined the full nature and extent of contamination of fill materials, natural soil, bedrock and groundwater on the Site and has not set out the methodology/ies for remediation of all contamination that can reasonably be expected to be present at the Site.

State Environmental Planning Policy No. 55 – Remediation of Land

The stated aims of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) include specifying certain considerations that are relevant in determining development applications in general and applications for consent to carry out remediation work in particular. Clause 7 of SEPP 55 places the obligation, to be satisfied that the land is suitable for the proposed purpose, squarely upon the consent authority.

In addition, as advised by Dr Ryall:

The contamination identified in the EIS reports, as documented in the RAP, required the owner of the Site to notify the EPA under s60 of the Contaminated Land Management Act 1997 as soon as practicable after they became aware of the contamination of groundwater has exceeded notification triggers set out in NSW DEC (2009) Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997.

I inspected the list of contaminated sites notified to the EPA under s60 on 12 August 2014 (<http://www.epa.nsw.gov.au/clm/publiclist.htm>) and the Site does not appear on the list.

If the EPA determines that the Site is significant enough to warrant regulation, they may impose conditions relating to further assessment and subsequent remediation of contamination on the Site. Compliance with the EPA's requirements, in particular in relation to the assessment and remediation of contamination of groundwater by VCHs may take some considerable time to comply with.

Given the advice from Dr Ryall, Council is not satisfied that the land will be suitable for the proposed residential uses, after remediation. Consequently, the proposal cannot be approved in accordance with Clause 7(1) of SEPP 55.

2.2 Employment Generating Land Uses

The *Inner West Subregion Draft Subregional Strategy* (2008) identifies 108.9ha of Employment Lands in the Leichhardt Local Government Area. The potential loss of the recently State Government announced, Bays Precinct (78.5ha) and Parramatta Road Employment Lands (12.2ha associated with the WestConnex project), results in the total Employment Lands in the Local Government Area may be reduced to approximately 18.2ha. Subtract from this the Employment Lands lost as a result of the rezoning of the Terry Street, Kolotex and Labelcraft sites (totalling 2.88ha), the resulting Employment Lands in the Local Government Area remaining would be 15.32ha.

Leichhardt Council has a relatively small stock of industrial/ employment lands remaining and of the remaining employment lands, there is an increased pressure for rezoning, recent applications received by Council to rezone IN2 – Light Industrial land include:

- 141 and 159 Allen Street, Leichhardt (approximately 1ha)
- 67 – 73 Lords Road, Leichhardt (approximately 1.07 ha)
- 245 Marion Street, Leichhardt (approximately 5210m²)

If these sites listed above were to be rezoned, along with the potential rezoning of lands in the Bays Precinct and Parramatta Road Urban Activation Precinct, the resulting Employment Lands stock in the Leichhardt Local Government Area could be reduced to approximately 12.75ha (worst case scenario).

It is an established best practice planning principle that certain industrial and employment uses must be located throughout urban areas, irrespective of the broader trend of industrial land uses moving to the western edge of the Sydney Metropolitan Area. This is due to their role as population-servicing industries. With Leichhardt's population expected to increase by 10% to 60,563 by 2036, there will be an increased demand for local industrial services.

Given the potential, substantial loss of employment lands in the Local Government Area in the future, and the need to provide land for jobs to service the local community, it is imperative that the Kolotex Site provides non-residential floor space, in accordance with the January 2012 Planning Proposal.

The loss of employment lands was an important consideration in the Department's assessment of the Planning Proposal to rezone the Kolotex

Site from IN2 – Light Industrial; to its current part B4 – Mixed Use and part R3 – Medium Density Residential zones. The August 2013 Merit Report, of the January 2012 Planning Proposal for the Site, prepared by the Department of Planning and Infrastructure, explains the intended effect of, and justification for, the proposed rezoning of the Site, to allow for residential and some employment uses.

The January 2012 Planning Proposal estimated that the rezoning would generate an estimated 125 direct jobs and 238 indirect ongoing jobs during the operational phase. It is noted that the January 2012 Planning Proposal included 1300m² of ground floor employment related development. The current Development Application has significantly scaled back employment generating land uses. The building incorporates two (2) retail tenancies, with a combined area of 175m², located on the ground floor adjacent to the George Street vehicle entry and paved shared-zone. The two (2) retail tenancies are likely to generate only a handful of jobs, depending on the final uses.

In light of the pressure to rezone employment lands in the Local Government Area, it is critical that local employment opportunities are retained where possible. While it is acknowledged that the Site is no longer classified as employment generating lands, one of the justifications for the rezoning of the Site to B4 – Mixed Use included the net community benefit of creating additional employment opportunities (as identified above, 125 direct jobs and an additional 238 in-direct on-going jobs during the operational phase of the development).

The negligible commercial floor space, under the current proposal, significantly reduces the employment opportunities that could be generated from the Site. This is at odds with best planning practice which advocates locating jobs in accessible locations; close to residential uses and is at odds with the justification for rezoning of the Site.

2.3 SEPP 65 Considerations

SEPP 65 specifies numerical controls for building depth, separation and setbacks which prescribe a site specific suitable building envelope. In some circumstances it is reasonable to investigate a deviation from these standards where it can be demonstrated that there will be no mitigating factors. Any proposal, be it a development application seeking to vary the current controls, needs to address design quality outcomes. A building with a significant height and floor space ratio outcome will need to provide corresponding landmark/ benchmark design outcomes.

The proposed footprints, uncharacteristic heights and lack of transition to surrounding low density residential areas, verify that the scheme has failed to undertake the required process for design evolution outlined in SEPP 65. This approach would have recognised the height and character of surrounding development and provided a reasonable scale of development to the public domain.

The key built form and design issues, as assessed against SEPP 65 are identified below:

Context and Scale

The development is for five (5) buildings ranging in height from four (4) to nine (9) storeys. There is no other development within the locality that has a comparable scale. The scale of the surrounding locality is low density residential and industrial development, one (1) – two (2) storeys in height. The scale of the proposal is unique for the area and consequently, must have greater regard for the adjoining low density neighbours.

The substantial size of the Site (approx. 1.03ha) means that a higher density form of residential dwellings should be able to be accommodated, while maintaining amenity to surrounding residential properties. The proposed buildings on the Site have been designed with little regard to the neighbouring low-density residential areas. The minimum height to Upward Street and George Streets is proposed to be four (4) storeys. A four (4) storey façade does not provide a reasonable transition to surrounding single and two storey development. The proposed extreme scale between the western and eastern development which is principally single and two storey is considered a severe transition and could be better resolved through urban design improvements, such as reducing the height at the boundaries of the Site.

The Residential Flat Design Code includes that: *Height is an important control because it has a major impact on the physical and visual amenity of a place. It can also reinforce an area's existing character or relate to an area's desired character.* The Site-Specific George & Upwards Street Development Control Plan (2014) controls included a three (3) storey height limit at the interface of George Street and Upward Streets, where there is existing low density development. A reduced height is a more appropriate transition to the lower scale development surrounding the Site. A reduced height at George Street and Upward Street would assist to maintain the character of the locality.

In addition, a reduced height along the boundaries of the Site would reduce environmental implications such as overshadowing and overlooking of neighbours. It is not considered that the design responds well to the scale and character of the street or local area.

Building Design – Floor Space Ratio (FSR)

The Site has numerous constraints which impact on whether a design concept could achieve compliance with the controls, without detrimental impact upon neighbouring properties. Typically, higher FSR controls (which result in higher population density) are supported where impacts on the surrounding neighbors and locality have been mitigated through best practice urban design.

The scheme has been designed to be consistent with the maximum FSR (2.15:1) and maximum building height (32m), rather than designing to protect the amenity of the surrounding locality and to ensure the amenity of future occupants of the development. A scheme with a reduced bulk and scale (and therefore reduced FSR) is likely to be more acceptable in the context of the character of the local area.

The proposal incorporates five (5) perimeter buildings of between four (4) and nine (9) storeys which have inadequate setbacks and excessive street wall lengths. The proposed design will result in an overbearing outcome for the surrounding single storey and two storey residential development. In particular the southern Block B will cast unreasonable shadow over its southern and western neighbours limiting future development potential

Building Design - Visual Privacy & Acoustic Privacy

The orientation of Block A has been amended from the Site-Specific DCP and will result in significant adverse privacy and amenity and streetscape impacts. Overlooking will occur to the rear yard areas of both the eastern

and western neighbouring dwellings. Consequently, it is considered appropriate in the circumstance the design is revisited and increased setbacks of upper floors in addition to privacy screens to the western and eastern balconies are included so as to reduce such overlooking impacts.

2.4 Affordable Rental Housing

Seven (7) Affordable Housing apartments will be provided in the proposed development in accordance with the existing Voluntary Planning Agreement established with the NSW Department of Planning and Environment. These dwellings will be managed by a recognised community housing provider and will be available to residents either living or moving into the area who meet the criteria. The Affordable Housing component represents 2.4% of the total dwellings at the Site. This is substantially short of Council's adopted policy on Affordable housing under the Leichhardt Affordable Housing Strategy (2011). Section 3.3.3 Developing Affordable Housing Policy, Clause 3.3.1 includes:

Action 1: Council to consider the provision of diverse, affordable and adaptable housing when land is rezoned and seek a minimum 10% affordable housing contribution for all new significant development projects, being: Government land, major developments (residential components) and significant rezoning (change in use to residential or an increase in residential density).

2.5 Failure to achieve objectives of zone

The Site is zoned part B4- Mixed Use (southern portion) and part R3- Medium Density Residential (northern portion) under the Leichhardt Local Environmental Plan 2013. The proposal is permissible in the zone however, it is considered to be inconsistent with the planning objectives as outlined in the Leichhardt Local Environmental Plan 2013 as follows:

B4- Mixed Use Objectives

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the renewal of specific areas by providing for quality medium density residential and small-scale retail and commercial uses.*
- *To ensure that development is appropriately designed to enhance the amenity of existing and future residents and the neighbourhood.*
- *To constrain parking and restrict car use.*

The proposal is not medium density residential, nor does it include adequate commercial and retail opportunities. The development, in its current form, will not enhance the amenity of existing and future residents and the neighbourhood. As outlined above under Section 2.3 - SEPP 65 considerations, the development is not appropriately designed to enhance the amenity of existing and future residents and the neighbourhood. The proposal is considered an overdevelopment (bulk and scale) and ignores the context of the locality, being low-scale development, one (1) and two (2) stories in height. Consequently the development will have unacceptable impact on the physical and visual amenity of the public domain. In addition, the proposal will result in unacceptable overlooking and overshadowing impacts of surrounding low-density residential development.

R3- Medium Density Residential Objectives

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To permit increased residential density in accessible locations so as to maximise public transport patronage and to encourage walking and cycling.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The characteristics of the proposed development is more akin to a High Density Residential development scenario, not a Medium Density Residential development. The development is comprised of five (5) separate buildings varying from four (4) to nine (9) storeys in height including a mix of apartment sizes and configurations - 288 residential units across a gross floor area (GFA) of 21,780m², comprising:

- 8 studio apartments
- 4 one bedroom apartments (without studies)
- 138 one bedroom plus study apartments
- 66 two bedroom apartments (without studies)
- 63 two bedroom plus study apartments
- 9 three bedroom apartments
- 272 underground car parking spaces
- 3 at-grade car parking spaces
- 2 retail tenancies.

The *Draft Metropolitan Strategy for Sydney to 2031*, Appendix D: Glossary of Terms includes the following definitions:

“Building Height

Low rise – three storeys or less, including terraces, townhouses, shop-top housing, semi-detached housing and small residential flat buildings.

Medium rise – four to five storeys, includes residential flat buildings and shop-top housing.

High rise – six storeys or more, includes residential flat buildings, shop-top housing and large mixed use developments, such as offices and shops with housing above.

Residential density

The number of dwellings within land zoned for housing, not including land for open spaces, roads, etc, defined as:

Low density – fewer than 25 net dwellings per hectare.

Medium density – between 25 to 60 net dwellings per hectare

High density – more than 60 net dwellings per hectare. High density does not necessarily mean ‘high rise’, there are a number of development forms that result in medium and high density which are low or medium rise. See also, building height.

The proposal is a high-rise, high density development. It has an overall height of greater than six (6) storeys and a density of greater than 60 net dwellings /ha. The Proposal is not a medium density development and as a result is not consistent with the objectives of either the B4 – Mixed Use and R3 - Medium Density Residential zoning.

In addition, it is not considered that the proposal satisfies the requirements to provide for the housing needs of the community (objective of the R3 – Medium Density Residential zone). Council’s Affordable Housing goal, under the Council’s Affordable Housing Strategy (2011) is:

Leichhardt Municipal Council will seek to retain and facilitate a socio economic diverse and sustainable community through the retention, promotion and development of affordable housing within the municipality to create stronger and healthier balanced communities.

Affordable housing ensures that all persons within the community including nurses, school teachers, hospitality workers etc remain within the community and contribute toward a socially, environmentally and economically sustainable and vibrant municipality. The proposal includes only seven (7) affordable housing apartments, which is just 2.4% of the total dwellings proposed. The proposal is not consistent with Council's policy to achieve a minimum of 10% affordable housing contribution. Consequently, the proposal does not provide for the housing needs of the community, as identified in Council's adopted, Affordable Housing Strategy (2011).

As outlined above, under the B4 – Mixed Use Zone assessment, and at Section 2.3 – SEPP 65 Considerations, the proposal does not achieve a high level of residential amenity for existing surrounding residents or future residents at the Site.

The proposal is not consistent with objectives of the zones applying to the Site. Consequently, it should not be supported in its current form.

2.6 Development Control Plans

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt DCP 2013
- George & Upward Streets, Leichhardt DCP 2014 (the Site-Specific DCP)

In considering the spot rezoning for the Site, the Department of Planning and Infrastructure previously noted a range of fundamental planning environmental amenity issues, including:

- *building height and scale;*
- *density;*
- *traffic and parking;*
- *retail impacts; and*
- *urban design.*

The Site-Specific DCP, is not a Council initiated document. The Site-Specific DCP was approved by then Department of Planning and Infrastructure. The Site-Specific DCP includes an indicative site layout; maximum building heights; building setbacks and separation; typical cross-sections; indicative landscape areas and access and circulation. The applicant has stated that the DCP is a "guide" rather than a document to provide certainty in the design and approval process. As a result, it is entirely appropriate that the proposal is subject to a merits based assessment.

A merits based assessment, as guided by SEPP 65, indicates that the proposal fails, particularly in terms of its height, scale and complete lack of consideration for the context of the Site in a low-scale and low-density area.

In addition, the proposal, in its current form, does not satisfy the aims of *The George and Upward Streets, Leichhardt Development Control Plan 2014 (DCP)*:

- *Communicate the objectives and controls against which the consent authority will assess future development applications*
- *Ensure the orderly, efficient and environmentally sensitive development of the site*
- *Minimise impacts on the residential amenity of adjacent properties*
- *Promote a high quality urban design outcome for the site.*

The development, in its current form, will result in unacceptable amenity impacts on the existing surrounding residents and the neighbourhood. As outlined above under Section 2.3 - SEPP 65 Considerations, the proposal is considered an overdevelopment (bulk and scale) and ignores the context of the locality. Consequently the development will have unacceptable impact on the physical and visual amenity of the public domain. In addition, the proposal will result in unacceptable overlooking and overshadowing impacts of surrounding low-density residential development.

A merits based assessment of the proposal, using the Site-Specific DCP as a guide, highlight the following issues in relation to the development:

Solar Access

The buildings do not achieve the 70% minimum requirement for solar access and visual and acoustic privacy. The applicant argues that the:

- *Existing site constraints including physical orientation, neighbouring property height, and adjacent land uses limit the potential to achieve 3 hours of direct sunlight. In particular, buildings oriented east and west facing Upward and George Street have limited potential to achieve the required 3 hours of direct solar access due to the orientation of the sun during mid-winter.*
- *Buildings oriented west, fronting Upward Street, have been designed to ensure adequate shading is provided to limit the potential heat impacts caused by the summer sun. That is, living rooms are located behind deep balconies in order to limit the potential for sunlight to penetrate the living rooms in mid-summer for extended periods of time.*

Notwithstanding, there is no reasonable justification to not achieving compliance in this circumstance particularly given the size of the Site and

the “blank canvas”. The design is not considered to be the best architectural design response possible and the examination of the proposal against an extended assessment profile of 8am – 4pm is not considered a reasonable justification.

Building Design

The development consists of five (5) residential buildings ranging in height from four (4) to nine (9) storeys, centered on a large landscaped communal courtyard. The Site-Specific DCP required, under Control C4, that the predominant street frontage height along George Street is to be 3 storeys and along Upward Street it may vary from 3 - 6 storeys as indicated in the extract of Figure 3 from the Site-Specific DCP below. The reason for the three (3) storey height limit is to provide an adequate transition between the development at the Site and the surrounding low-scale residential development.

A minimum four (4) storey element to George Street and to the northern end of Upward Street is not consistent with the low-density character of the surrounding residential properties and does not provide an adequate transition between the higher density character of the Site and the surrounding locality. The nine (9) storey element on the Site also cannot be supported. The maximum height in storeys, for the Site in accordance with the Site-Specific DCP is eight (8) storeys. The nine (9) storey element further erodes the low-density nature of the character of the area.

Visual Privacy

Overlooking will occur to the rear yard areas of both the eastern and western neighbouring dwellings. Consequently, it is considered appropriate in the circumstance the design is revisited and increased setbacks of upper floors in addition to privacy screens to the western and eastern balconies are included so as to reduce such overlooking impacts.

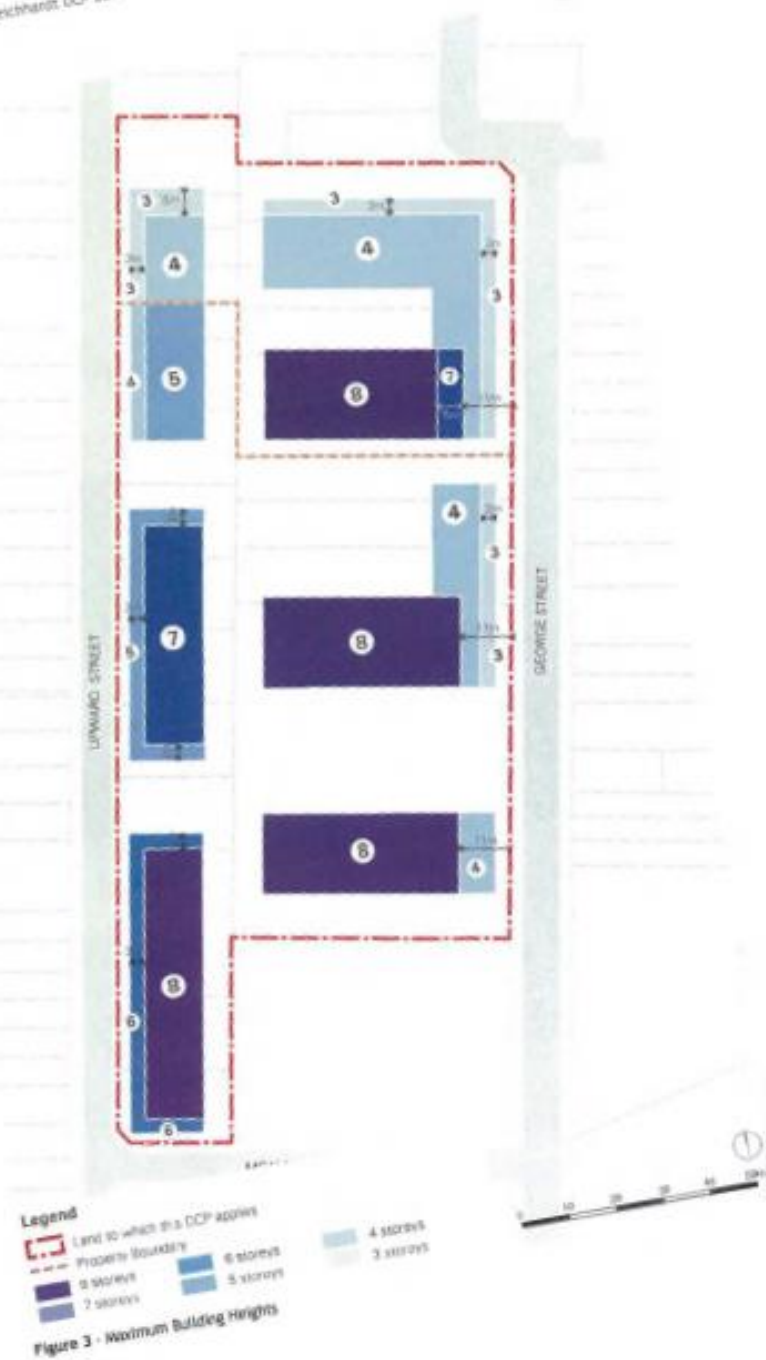


Figure 1: Extract of Figure 3 – Maximum Building Heights – George & Upward Streets, Leichhardt DCP 2014

2.7 Traffic and Parking

While Council's independent traffic report, by Bitzios Consulting (September 2014) concludes that:

The modelling indicates that the development would have minimal impact on traffic congestion in the area, with both travel times and level of service (intersection delays) remaining relatively consistent with and without the developments.

Significant concern is raised regarding the impact of the development on traffic and parking in the locality, based on anecdotal evidence from the community. In particular, on-street parking is already at capacity (as identified in the Bitzios 2014 Traffic Assessment report). It is considered that the development will increase pressure for on-street parking, reducing amenity for existing surrounding residents and causing further congestion on the narrow, surrounding streets.

In addition, it is considered that the traffic modelling of the development by the applicant is flawed. There are likely to be significantly different outcomes to the modelling, should the land use mix change (i.e. increase commercial uses in line with the requirements for the Site under the rezoning), and/ or a change in unit mix. The proposal includes:

- 138 one bedroom plus study apartments
- 66 two bedroom apartments (without studies)
- 63 two bedroom plus study apartments
- 9 three bedroom apartments
- 272 underground car parking spaces
- 3 at-grade car parking spaces
- 2 retail tenancies.

It is assumed that the parking requirements for the 138 one-bedroom apartments plus study have been based on the one -bedroom rate under the Site Specific DCP, rather than the two-bedroom parking rate (the design of many of the units is such that in the future, the study could be used as a second bedroom). Changes to the unit mix or amount of commercial space will place further pressure on the limited on-street parking spaces surrounding the Site, resulting in further unacceptable amenity impacts to surrounding residents.

3 conclusion

The proposed development, in its current form, at 22 George Street, Leichhardt cannot be approved in accordance with Clause 7 of SEPP 55 – Remediation of Land. This is a threshold issue. As there is no certainty that the Site can be developed for the proposed residential and commercial land uses, Development Application D/2014/312 must be refused.

Even if the applicant provided an adequate Remediation Action Plan, ensuring the health and safety of future residents and visitors to the Site, to the satisfaction of Council, the proposal is not consistent with Council and State strategic plans and policies, and is considered an overdevelopment (bulk and scale).

The applicant has not provided adequate justification for the building height and scale in the context of the locality. The proposal ignores the local context of the Site, and its surrounding environment. The proposal does not provide an adequate transition to the surrounding low-density residential development.

This submission demonstrates that:

- The Site is contaminated. The source of the contamination is potentially on land to the north of the Site, under separate ownership. Council's independent remediation expert has advised that the applicant's Remediation Action Plan is inadequate. Council is not satisfied that the Site can be adequately remediated to protect the health of future occupants and visitors to the mixed use residential development. Consequently, the proposal cannot be approved in accordance with Clause 7 of SEPP 55 – Remediation of Land.
- The proposal fails in terms of its urban design and architectural merit and would result in poor amenity for existing surrounding residents and future residents at the Site.
- The proposal fails to achieve the objectives of the B4 – Mixed Use zone and the R3 – Medium Density Residential zone.
- The amount of commercial space proposed is inadequate and fails to achieve the projected employment figures that were the basis of rezoning of the Site.
- The Affordable Housing provision is inadequate and is not consistent with Council's Affordable Housing Strategy (2011).
- The proposal fails against the objectives of the George and Upward Streets Site-Specific DCP 2014.

Overall, the proposed development fails to achieve, as a result of the contamination of the Site and the Labelcraft site to the north:

- The minimum requirements to ensure the health and safety of the existing surrounding residents, and future residents and visitors to the Site.
- The environmental health of nearby Hawthorne Canal.

In addition, the proposed development fails to achieve the quality design outcomes that the planning framework requires in order for development to be acceptable.

On this basis the Councillors of Leichhardt Council strongly object to the proposed development at 22 George Street, Leichhardt (Development Application D/2014/312).