



JOINT REGIONAL PLANNING PANEL

DEVELOPMENT ASSESSMENT REPORT

2 APRIL 2015

Application No.	D/2014/646
Address	30-40 George Street, LEICHHARDT NSW 2040
Proposal	Site preparation works (including diversion of services, demolition of existing structures and excavation), construction of 2 buildings of between 4 and 8 storeys comprising 123 residential units above a 2 level basement car park with 122 parking spaces, and associated works including providing communal open space incorporating a pool, landscaping works, removal of trees, provision of roof gardens with plunge pools, and strata subdivision
Date of Receipt	28 November 2014
Applicant	Stithos Pty Ltd
Owner	Mr T D Rowney
Number of Submissions	116 in opposition
Building Classification	Class 7a, Class 2
Main Issues	<ul style="list-style-type: none">• Contamination and inadequate Remediation Action Plan• Adverse streetscape and poor design outcomes• Excessive and inappropriate scale• Inadequate deep soil zone / landscaping across the site and unsatisfactory public through-site link design• Poor amenity outcomes on the site• Adverse amenity impacts on adjoining properties• Unsatisfactory basement design, including unresolved waste management on the site• Inadequate response to the site's zoning objectives• Inadequate information
Recommendation	Refusal

1. PROPOSAL AND APPLICATION HISTORY

- Site preparation works comprising:
 - Diversion of services;
 - Demolition of existing structures; and
 - Excavation.

Remediation of the site will also be required prior to construction proceeding, however, consent has not been sought for remediation.

- Construction of a two level basement car park, with access and egress via single point on George Street less than 25m from the intersection of George Street and Treadgold Street South, including providing for:
 - Parking for 122 vehicles, including a car share space;
 - Bicycle parking for 74 bikes;
 - Plant and equipment rooms;
 - Storage cages for new residences;
 - Car wash bays; and
 - Waste rooms.
- Construction of 123 apartments constructed above the basement levels and contained within two buildings as follows
 - A U-shaped building (Building B) fronting George Street comprising eight storeys with 15 rooftop gardens and 7 plunge pools; and
 - A second building fronting Upward Street (Building A) comprising four storeys with 3 rooftop terraces.

The centre of the George Street building comprises a central communal courtyard area that wraps around the rear of the northern side of the building where it is also adjacent to the rear of the Upward Street building. This area comprises a combination of paved and soft landscaped space, a communal pool and water features.

The proposed dwelling mix will be as follows:

- 59 X 1 bedroom units;
- 48 X 2 and 3 bedroom dwellings; and
- 16 terrace-style units (all within the George Street building),

with six of these units being nominated as affordable (contained on the ground floor of the Upward Street building).

- Provision of a publically accessible through-site link from George Street to Upward Street to the north of the site. This site through link will also facilitate access to some of the residences within the George Street building.

A second site through link is proposed adjacent to the southern boundary and wrapping around the rear, southern portion of the George Street building, linking with the central communal area. This link will also facilitate access to some of the residences within the George Street building.

Dwelling entries are also proposed to the Upward and George Street frontages.

- Provision of a passive recreation area in the north-west corner of the site to the north of the publically accessible through-site link.
- Proposed new walls, fencing and gates to the boundaries of the site, including:
 - Fencing and gates fronting the buildings and dwelling entries to the George and Upward Street buildings; and
 - A high green wall on the Treadgold Street South frontage at its intersection with George Street (adjacent to the publically accessible through-site link).
- Removal of two prescribed trees on the Upward Street frontage of the site.
- Strata subdivision.

Council forwarded letters to the applicant, dated 12 February 2015 raising issues and concerns, including with regard to:

- Inadequate Remediation Action Plan to render the site suitable for future residential use;
- Non-compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development / NSW Residential Flat Design Code, including concerns relating to excessive and inappropriate scale and design, lack of adequate landscaping across the site and poor and / or adverse on-site and off-site amenity outcomes;
- Non-compliances with the site specific planning controls applicable to the site;
- Unresolved traffic management issues;
- Unsatisfactory basement parking design, including unresolved waste management issues;
- Unresolved matters relating to site drainage and stormwater control;
- Non-compliance with the Building Code of Australia;
- Lack of adequate site facilities;
- Lack of Social Impact Assessment; and
- Deficient plans and information.

Amended plans and additional information (Revisions A, B and C) were lodged in response to Council's letter on 5 March 2015, which form the basis of this assessment. The primary amendments carried out involve:

- Amendments / reconfiguration to the basement car parking layouts, including reducing the number of car parking spaces from 125 to 122, providing for a car share space, increasing bicycle parking from 72 to 74 bikes, providing storage cages for new residences, providing car wash bays and to accommodate a garbage collection area within Basement 1 to allow collection by private contractor;
- Relocating ground level courtyards associated with six of the northern terraces away from the northern boundary and clear of the public through-site link;
- Provision of individual entries to all Ground Level George and Upward Street residences;
- Provision of additional privacy mitigation measures to the balconies adjoining Apartment D16 and B11; and
- Amendments to internal layouts to remove internal study rooms from residences that did not have direct access to natural light and ventilation, to

nominate storage areas in apartments, and to ensure the back of kitchens to single aspect dwellings are not greater than 8m from a window.

The additional information that accompanied the amended plans included, inter alia, a Social Impact Statement and updated Traffic and Parking Study.

The amendments carried out relate to the detail of the development and could have been conditioned, and in such circumstances, Council's Notification controls as contained in the Leichhardt Development Control Plan 2013 do not call for such amendments to be renotified. Notwithstanding the above, the amended plans and additional information have not satisfactorily addressed many of the issues and concerns noted in Council's letter, and fundamental redesign is considered to be warranted. In light of this, and the contamination issues that are considered to remain unresolved, refusal of the application is recommended.

2. SITE DESCRIPTION

The subject site, generally known as 30-40 George Street, comprises several lots legally described as Lot 16 in DP 69760, Lot 1 in DP 745979, Lot 1 in DP 745978, Lots 5 and 6 in DP 745976, Lot 7 DP 448755, Lot 1 in DP 920105 and Lot 9 DP 666322. The site is bounded by George Street to the east, Upward Street to the west, Treadgold Street South and residential houses fronting George and Upward Streets to the north, and the industrial Kolotex site to the south. The lots combined result in a site that is irregular in shape, with frontages of 58.575m to George Street, 15.42m to Treadgold Street South, a splay corner 3.45m wide to the George Street and Treadgold Street South intersection, and 39.15m to Upward Street, and has a total area of 4545 square metres (sqm).

The site currently contains one (1) and two (2) storey brick and concrete factory facility used for an industrial label printing business.

The surrounding built forms primarily comprise of:

- To the north: Single and 2 storey dwelling-houses fronting George and Upward Streets;
- To the east across George Street: The backs of a number of single and two storey dwellings fronting Flood Street and that have rear access to George Street;
- To the west across Upward Street: Kegworth Public School and a residential flat building fronting Tebbutt Street; and
- To the south: A series of 'purpose built' brick and concrete factory, warehouse, and office facilities varying in scale between 1-3 storeys and formerly used for the manufacture of clothing (Kolotex) to the south at No. 22 George Street, which at the time of writing this report, were the subject of demolition works associated with a Complying Development Certificate CDCP/2015/32.

The area contains a mix of residential, industrial and commercial uses of various scales.

Pursuant to the Leichhardt Local Environmental Plan 2013 (LLEP2013):

- The buildings on site are not listed as heritage items, however, are adjacent to and within the vicinity of a number of listed heritage items, the closest being a group of semi-detached dwellings at 59-71 Upward Street of local significance;
- The site is not located within a heritage conservation area; and

- The site is zoned R3 – Medium Density Residential.

The site is not identified as a flood control lot.

3. SITE HISTORY – SUBJECT SITE AND ADJOINING KOLOTEX SITE

Subject Site

The site has an extensive history of industrial use. However, the following timeline is a summary of activity since 2006 in relation to the rezoning of the Labelcraft and adjacent Kolotex sites:

2006: Rezoning application to rezone the Kolotex site from industrial to allow for mixed use, predominantly residential, lodged with Council. Council resolved (under s.54 of the Act) to initiate the rezoning process and commence a draft LEP Amendment.

2007: Department of Planning advised Council that it was unlikely to support the proposed draft LEP Amendment, including the need for additional justification for the loss of industrial land.

July 2009: Department of Planning supported the proponent's request to reclassify the Kolotex and Labelcraft sites as Category 2 Employment Land in the Inner West Sub-Regional Strategy. The support was contingent on some employment uses being retained on the site.

2009: Department of Planning advised the proponent that a new Council resolution was required before any additional information would be considered by the Department under the Gateway determination process.

April 2010: A new planning proposal to rezone both the Kolotex and Labelcraft sites was submitted to Council by the proponent. The Council resolved to refer the proposal to the Department for a Gateway Determination (under s56 of the Act).

June 2010: The Department determined that the Gateway Determination should not proceed, including due to inadequate justification regarding consistency of the proposal with Council's strategic planning framework for the area.

2011: The Department advised the proponent it would not support a request to consider the proposal as a concept plan under the now repealed Part 3A of the EP&A Act.

March 2011: Council resolved to defer the progression of the rezoning proposal, with clarification required on a number of matters, and resolved:

- FSR no greater than 0.5:1;
- Maximum four (4) storeys;
- Maximum two (2) levels to street fronts;
- Dedication of a significant proportion of open space as a public park;
- Addresses risk of overshadowing;
- Addresses privacy issues;
- Key environmental sustainability principles; and
- all other recommendations as outlined in the Council officer's report

June 2011: The Director General wrote to Council requesting that it submit a planning proposal for the site to the Department for a Gateway determination. No response was received.

January 2012: Kolotex site owner submitted a planning proposal to the Department of Planning and Infrastructure requesting the referral of the matter to the Planning Assessment Commission (PAC) and the appointment of an alternative Relevant Planning Authority under s.54(2) of the Act. The planning proposal notes that the Kolotex site owner considered that the level of detail required to be addressed in Council's resolution (March 2011) was premature within the context of the Gateway process (mechanism for preparing LEPs).

May 2012: The PAC determined the planning proposal had strategic merit and recommended to the Minister that the proposal proceed to the Gateway determination process. The PAC advised that it did not carry out a detailed assessment of the planning proposal, and its recommendation did not indicate a support of the planning proposal, including matters such as proposed floor space ratio or building height controls and that those matters would be considered in the course of the Gateway determination process.

June 2012: The Minister directed the Director General of Planning to be the Relevant Planning Authority (RPA) for the planning proposal.

February 2013: The Department representatives met with Councillors and Council staff to provide an overview of strategic investigations undertaken following the Director General's appointment as the Relevant Planning Authority and to seek Council feedback and comments on the planning proposal.

March 2013: The Minister's delegate issued a Gateway Determination under s56(7) of the Act for the planning proposal and determined that the proposal should proceed and that it be finalised within 6 months. The Gateway determined that the proposal should proceed and contained conditions to be addressed prior to public exhibition including:

- An initial site contamination investigation report which demonstrates that the site is suitable for rezoning to the proposed zones;
- Further built form and urban design analysis to identify appropriate floor space ratio, building height controls, distribution and mix of land uses and development controls across the site;
- Preparation of development controls to guide the future development to ensure the underlying objectives of the planning proposal could reasonably be achieved;
- Feasibility modelling analysis to identify an appropriate and economically feasible affordable housing contribution; and
- Consultation requirements.

August 2013: Department of Planning issued a Revised Gateway Determination for the planning proposal to rezone land for medium density housing and mixed use retail and commercial purposes (R3 Medium Density Residential and B4 Mixed Use) and specified the consultation requirements.

August 2013: Department of Planning representatives provided Councillors and Council staff with an overview of the strategic investigations and sought Council feedback and comments prior to public exhibition of the planning proposal.

August – September 2013: Public exhibition of the Planning Proposal and supporting documents.

Post September 2013: The planning regime governing the site has been subsequently 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 R3 - Medium Density Residential;
- Site Specific Development Control Plan (George & Upwards Streets, Leichhardt DCP 2014) and
- Voluntary Planning Agreement limiting the affordable housing component to six (6) dwellings, i.e. 4.9% of the overall total dwelling numbers;
- A maximum floor space ratio for the Site is 2.15: 1 and
- Maximum building height requirements for the Labelcraft site are 16m at the northern end of the site with the remainder of the Site having a maximum building height of 32m.

Voluntary Planning Agreement (VPA)

A “Voluntary Planning Agreement” is a legally binding document between the Relevant Planning Authority (RPA) and an applicant – normally a land owner and/or developer, whereby it is agreed that certain things will occur in relation to a proposed rezoning.

The Voluntary Planning Agreement for the development site requires the provision of affordable dwelling units on the Labelcraft site as follows:

“Affordable Housing Lots means four (4) strata lots in the Building comprising:

- (a) Two lots of approximately 52sqm and configured as 1 bedroom units; and*
- (b) Two lots of approximately 51 sqm and configured as 1 bedroom units*

Or of such sizes as otherwise agreed with the Director-General, to be used as Affordable Housing purposes.”

Clause 1 of Schedule 4 of the VPA also requires that the developer undertakes to make the following Development Contributions:

- **Lease Contribution** – *granting two Leases to an Affordable Housing Provider;*
- **Transfer Contribution** – *transfer of the Affordable Housing Lots to the Minister or his nominee.*

Standard Section 94 levies are capped at \$20 000 per dwelling (the affordable dwellings being excluded from any levy). In particular, the relevant wording of the Agreement is as follows:

The application of sections 94 and 94A of the Act is not excluded in respect of the Development with the following qualifications:

- (a) the Affordable Housing Lots are to be disregarded when calculating any payment required under sections 94 and 94A of the Act; and*
- (b) the maximum monetary contribution (including any indexation) per lot under section 94 or 94A will be \$20,000.*

Six (6) affordable housing units have been nominated as part of the proposal to meet the terms of the VPA located on the ground floor of the building fronting Upward Street as follows:

- Two lots of approximately 52sqm and configured as 1 bedroom units;
- Three lots of approximately 51 sqm and configured as 1 bedroom units;
- One affordable housing unit approximately 60sqm and configured as a one bedroom unit.

Kolotex Site (No. 22 George Street)

The following outlines the recent relevant property history pertaining to the adjoining Kolotex site:

Application No:	Application Details
D/2014/240	Demolition of existing structures, removal of trees, diversion of services and removal of all hazardous material from the site – Withdrawn
D/2014/312	Site preparation works (including diversion of services, remediation, demolition of existing structures and excavation) and construction of a mixed use development of 5 buildings of 4 to 9 storeys. The buildings shall comprise 2 commercial tenancies and 288 residential units above a basement car park containing 272 parking spaces. Associated landscaping and public domain works – Refused
D/2014/713	Site preparation works, including remediation and construction of five residential flat buildings, incorporating 287 apartments and 5 commercial tenancies and associated landscaping and basement parking – Decision Pending
CDCP/2015/10	Demolition of the existing industrial buildings on site - Consent Surrendered
CDCP/2015/32	Demolition of the existing industrial buildings on site - Approved

D/2014/312

This application was refused by the Joint Regional Planning Panel on 23 October 2015:

The Panel adopts the reasons for refusal listed in the assessment report which were as follows:

1. The application has not satisfied the requirements of Clause 7 of *State Environmental Planning Policy 55 - Remediation of Land*, insofar as a Remediation Action Plan consistent with the relevant guidelines, has not been submitted for assessment, and it remains uncertain, therefore, how or whether land and groundwater contamination would be addressed and whether the site could consequently be made suitable for the intended use.
1. The proposal, the subject of this assessment, has failed to satisfy relevant provisions of *State Environmental Planning Policy 65 - Design Quality of Residential Flat Development*, having particular regard to the failure to achieve satisfactory solar access to units, inadequate building separation, unacceptable building depth and appropriate storage provisions.

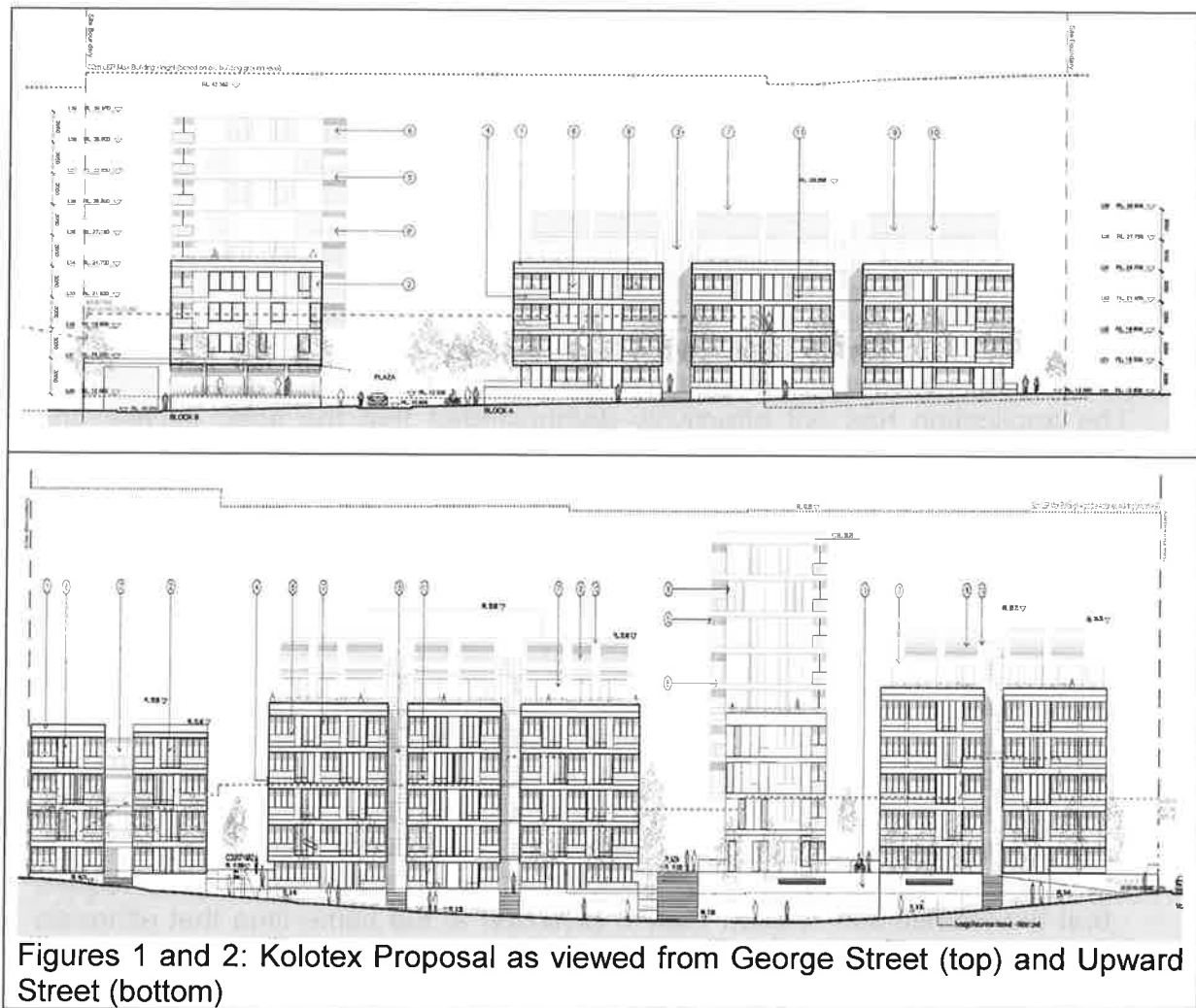
2. The proposal has failed to provide an appropriate mix of non-residential development and does not meet the underlying objectives of the B4- Mixed Use zoning under Leichhardt Local Environmental Plan 2013.
3. The proposal has not been accompanied by a relevant BASIX Certificate, which is a mandatory requirement under *State Environmental Planning Policy (Building Sustainability Index: BASIX)*.
4. The flood risk strategy has failed to satisfy Clause 6.3-Flood Planning of Leichhardt Local Environmental Plan 2013, having particular reference to Clause 6.3(1)(a); and Section 1.3.1 of Leichhardt Development Control Plan 2013 in that the development has not minimised flood risk nor has it provided an evacuation route clear of the floodway.
5. The application has not effectively demonstrated that the solar access and privacy objectives of Development Control Plan (George and Upward Streets 2014) have been satisfied.
6. Documentation submitted with the application has not established that the site is suitable for the proposed development, as required pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*.

The principal reasons for the Panel's decision are:

- 1) The Panel cannot, on the basis of the material before it, be satisfied that the site is suitable for residential development, because of possible high-level contamination. To be so satisfied, the Panel would require a Section B Site Audit Statement certifying that the site can be made suitable if the Remediation Action Plan is implemented. In addition, the Panel would require that the Remediation Action Plan is exhibited at the same time that either an amended application or a new application is exhibited.
- 2) The proposal does not perform well against SEPP 65 or the Residential Flat Design Code principally in relation to the proportion of apartments that receive adequate sunshine in mid-winter.
- 3) The Panel has considered the applicant's request that it should defer, rather than refuse, the application. The Panel has opted for refusal mainly because of the long period for which the application would need to be deferred. Moreover, there is no certainty that the site can be made suitable for residential development independently of other neighbouring sites. If it can be made suitable, there is a possibility that it may take a very long time.
- 4) Finally, the Panel considers that there have been so many versions of this application already that a new application is justified. This would enable the applicant to respond to the issues raised by the council and the community. A major issue raised is that the proposed buildings do not provide a reasonable transition of scale to the existing development on the other side of the surrounding streets.

D/2014/713

This application is currently under assessment and will be considered by the Joint Regional Planning Panel at a later date. The following are street elevations of the proposal as lodged:



Figures 1 and 2: Kolotex Proposal as viewed from George Street (top) and Upward Street (bottom)

Based on the proposals as lodged for both the Labelcraft and Kolotex sites, the total dwelling yield across both sites will be 410 residences. In its Planning Proposal report dated August 2013, the Department of Planning and Infrastructure anticipated up to 350 new homes would be provided across both sites.

4. ASSESSMENT

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

(a)(i) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP2005); and
- Leichhardt Local Environmental Plan 2013 (LLEP2013).

The proposal is unsatisfactory with respect to the provisions of SEPP 55, SEPP 65 and the LLEP2013, as clarified in the following assessment.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

The following contamination information was lodged with, and during the assessment of the application:

- Detailed Site Investigations prepared by Environmental Assessments (EIA) Australia and dated 9 September 2014 and 20 October 2014 confirming that the site is highly contaminated;
- A Remediation Action Plan (RAP) from EIA and dated 17 October 2014; and
- A Site Audit Report prepared by S & N Environmental Engineers and Contractors and dated 9 December 2014.

Correspondence has also been received from the Environmental Protection Authority (EPA) notifying that the contamination at the site is significant enough to warrant regulation under the Contaminated Land Management Act 1997 (CLMA 1997). Of particular concern to the EPA is the following:

- Significant concentrations of trichloroethene (TCE) and tetrachloroethylene (PCE) were reported in groundwater monitoring wells located in the southern portion of the site;
- Additional contaminants of concern that were reported above the adopted screening levels in groundwater include cis-1,2-dichloroethene, chlorobenzene, 1,3,5-trimethylbenzene, 1,4-dichlorobenzene, and 1,2-dichlorobenzene;
- The contamination has already migrated off-site into the adjoining property to the south;
- Significant concentrations of TCE and PCE in a few off-site soil vapour bore locations along Upward Street have been reported hence there is potential for vapour intrusion.

Under Section 11 of the CLMA 1997, the site was declared significantly contaminated land in February 2015.

Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, requires that the consent authority consider whether the site is suitable for the proposed development, and Clause 7 of SEPP 55 reads:

“(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

Therefore, the consent authority must be satisfied that the proposal meets the above provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 and Clause 7 of SEPP 55 in order for any development involving residential development to proceed.

During the assessment of the application, Council sought independent expert advice and a review of the Detailed Site Investigations and RAP and Site Audit Report. This advice has concluded as follows:

Assessment of Detailed Site Investigations

The latest Detailed Site Investigation dated 20 October 2014 contains the following deficiencies:

“The EIA Report was not of adequate scope or reliability to allow the environmental condition of the Site to be characterised according to the requirements of guidelines endorsed by NSW EPA. In particular the EIA Report did not identify:

- the significance of the high concentrations of PCE and its degradation products in groundwater. The high concentration of PCE reported in groundwater from BH405 indicates the likelihood of one or more sources of Dense Non-aqueous Phase Liquid (DNAPLs) being present in this vicinity, but as yet unidentified.*
- that PCE and its degradation products are toxic, volatile and are either known or suspected human carcinogens;*
- the high probability that PCE and its degradation products are present in groundwater within the Hawkesbury Sandstone bedrock and the complexity of the investigation and any subsequent remediation works;*
- the direction of flow of contaminated groundwater;*
- the high probability that groundwater contaminated by PCE and its degradation products has migrated into the Kolotex site, to the south, and Upward Street, to the west;*
- the probability that groundwater contaminated by PCE and its degradation products has migrated into residences situated on the western side of Upward Street;*
- the direction of flow of groundwater and that contaminated groundwater is flowing onto the site located to the south of the Site and is possibly flowing onto residences situated on the western side of Upward Street; and*
- the full presence of asbestos in the fill materials because the samples were not collected in accordance with the requirements set out in NEPC (2013).*

Additional environmental investigation is required to properly characterise the environmental condition of the Site.”

Council’s independent expert also noted that:

- It should be recognised that identification of the source/s of DNAPLs is commonly difficult and requires intensive investigation, commonly implemented in a number of stages. In addition, it is clear that the DNAPLs, if present, are probably sourced on the site by leakage and/or spillage of dry cleaning fluids and will require remediation. However, it is likely that the DNAPLs may have migrated vertically into the sandstone bedrock and that, in this location where DNAPLs cannot readily be extracted from the bedrock, remediation is likely to be difficult and to require a long time frame; and
- The above situation is further complicated by the migration of the chlorinated VOCs from the site into neighbouring sites, certainly into the Kolotex site that adjoins the site to the south, and into Council's Upward Street, and possibly into residential land situated on the western side of Upward Street. In this situation, investigation and any remediation works are commonly of long duration due to the requirement for a community awareness program, arranging

legal access, and the practical difficulty in carrying out remediation works, if required, on developed sites where people live.

In light of the above, a reliable RAP cannot be developed until a reliable investigation of the environmental condition of the site has been completed in accordance with the above and previous advice.

Assessment of RAP

The RAP referred to the Detailed Site Investigation report dated 9 September 2014. Section 6.2 "Additional Investigations Required" stated that:

"... additional investigations are required to address data gaps identified in Section 5. Additional investigations should occur after the demolition of the site infrastructure and should include:

- Additional groundwater investigations to delineate the identified VOC plume (both on and off the site);*
- Additional soil investigation in areas of the site previously inaccessible; and*
- An assessment of the potential VC vapours to impact receptors (both on an off the site) identified in the CSM (Section 5)".*

The RAP is not in compliance with policy of and guidelines endorsed by NSW EPA and a revised RAP should be prepared when the additional investigations have reliably identified the nature and extent of:

- DNAPLs, if present;
- Contamination of fill materials and bedrock; and
- Contamination of groundwater.

Assessment of Site Audit Statement

The following comments in relation to the Site Audit Statement have been provided:

- The "Company" who employed the site auditor was stated to be "S&N Environmental". However, the EPA's website and the site auditor is stated to be employed by Jacobs Group (Australia) Pty Ltd. It is unclear as to the implications of the site auditor's employer not being listed on the EPA's website;
- The "Site details" relating to Lots and DPs stated in the Site Audit Statement were different to those stated in the RAP. The former referred to Lot 90 in DP666322, whereas the latter referred to Lot 9 in DP666322. The corrected property details should be revised on any future Site Audit Statement;
- Section A of the Site Audit Statement stated the Purpose of the site audit was *"To determine the land use suitability....for Residential B land use (NEPM 2013)".*
- Section B of the Site Audit Statement certified that:
 - The remedial action plan is appropriate for the purpose stated above; and
 - The site can be made suitable for the following uses "Residential with minimal opportunity for soil access, including units and commercial/industrial, if the site is remediated in accordance with the submitted RAP. The certification provided by the Site Audit Statement was subject to 11 conditions, two of which related to substantial additional environmental investigation of the environmental condition of groundwater, fill materials and sandstone bedrock. It is inappropriate for the Site Audit Statement to require substantial additional investigation and

other works, given that the additional investigation may identify contamination issues that require significant changes to the remediation strategy and work program;

- The Site Audit Statement contained a number of "overall comments":
 - Comment 2 states that *"The Site Auditor considers the RAP meets or closely meets the reporting and management requirements specified in NSW EPA guidelines"*. However, the RAP does not meet the requirements of policy or guidelines made by NSW EPA. Comment 2 that states the *"...RAP meets or closely meets the reporting and management requirements specified in NSW EPA guidelines"* is not considered to be correct, and a reliable RAP for the Labelcraft site cannot be prepared until additional investigations as detailed previously are carried out; and
 - Comment 3 states that *"Data gaps in the contamination assessment presently exist due to access restrictions at the site"*, but the Site Audit Statement did not address the nature of the access restrictions that prevented additional environmental investigation to be undertaken. Access restrictions limiting the scope of environmental investigation programs are commonly encountered on operating sites. If the site is now vacant, adequate access may be available to complete a comprehensive environmental investigation program.

Demolition of Buildings

The environmental consultants have recommended demolition of the building structures before additional environmental investigations are undertaken. With respect to demolition of the buildings on the Labelcraft and the adjacent Kolotex sites, the applicant should be mindful of the odorous and hazardous nature of the PCE and its degradation products that have contaminated groundwater and, almost certainly, fill materials and sandstone bedrock, and the impact that this may have on the amenity and safety of occupiers of surrounding properties. It is common for remediation of PCE and its natural degradation products to require excavation to be carried out within an enclosed structure from which the migration of odorous and hazardous vapours can be prevented or minimised to acceptable levels.

In the event of the buildings being vacant, access may be suitable to allow the additional investigations to be completed with the building structures being preserved to the extent practicable during the investigation stage and that demolition during the remediation stage should be permitted only when adequate measures have been implemented to ensure that odorous and hazardous vapours will not migrate from the sites.

Management of asbestos-impacted fill materials

The environmental investigation programs identified the presence of asbestos-containing materials in fill materials on both the Labelcraft and adjacent Kolotex sites. It is considered that the investigation programs for both sites were not carried out in accordance with guidelines endorsed by NSW EPA and were inadequate to have reliably identified the presence of asbestos fibres in soil. Although the RAPs proposed limited measures to prevent generation of dust, the measures that were proposed to prevent release of asbestos fibres to the atmosphere were inadequate. In addition, the RAPs did not propose measures to monitor for the presence of

asbestos fibres in air during excavation and loading of fill materials onto trucks for disposal from the site.

It is considered that, given the proximity of neighbouring properties, some of which are used for residential purposes, the RAPs should have described measures to prevent liberation of asbestos fibres from fill materials during excavation and loading, and should have described the method for identifying the presence of asbestos fibres in air and, if asbestos fibres were detected, the additional measures that would be implemented.

The above concerns were forwarded to the applicant in Council's letter dated 12 February 2015. In response, Council received a letter from the applicant's Environmental Consultant dated 4 March 2015, which generally concludes that the RAP meets NSW EPA reporting requirements and the RAP and Site Audit Statement are adequate for assessment purposes, and that, although additional investigations will be necessary, there is a low risk that the remediation strategy described by the RAP will be significantly changed as a result of future investigations because:

"...the RAP requires the excavation and removal of all on-site materials contaminated at concentrations exceeding Investigation Levels." This includes contaminated soil and groundwater, which would also deal with soil vapours. Such a strategy is highly conservative and eliminates the possibility of any additional remediation work needing to be undertaken at the site or a change in remediation strategy.

In my opinion, the main purpose of the additional investigations is to allow the environmental consultant to more accurately calculate the quantities of material that would need to be removed from the site. It should also be noted that the Section B Site Audit Statement form allows a Site Auditor to conclude that:

- The nature and extent of the contamination has not been appropriately determined to date;*
- The investigation/RAP/management plan is appropriate for the purpose stated above; and*
- The site can be made suitable for selected land-uses."*

Council's Environmental Consultant remains unsatisfied with the response to previous concerns raised, and that the RAP and Site Audit Statement are unable to be relied upon by Council as they each require additional environmental investigations to be undertaken before the full nature and extent of the contamination can be understood, and appropriate remediation techniques adopted.

It should be further noted that:

- The proposed remediation of the site is also likely to involve additional excavation beyond the excavation shown on the plans to a level that cannot be determined based on the information provided; and
- Section 10.7 of the RAP makes reference to the NSW Office of Water requirement to obtain a license prior to any groundwater extraction. At this stage, a groundwater remediation option has not been determined, however, due to site limitations, some form of pump out and treatment strategy may be required – this would require the consent of the NSW Office of Water. Further groundwater investigation is to include sampling and installation of additional boreholes and monitoring wells.

In summary, Council is of the opinion that it does not have before it an adequate RAP and Site Audit Statement B, and remains concerned that the provisions of Clause 7 of SEPP 55 have not been satisfied.

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65) and State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX 2004)

SEPP 65 applies to the erection of a new residential flat building (RFB), and an RFB is defined as a building that comprises or includes:

- Three (3) or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2m above ground level), and
- Four (4) or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.

The development is more than three (3) storeys and contains more than four (4) dwellings, and therefore, the provisions of the SEPP apply. In accordance with clause 30(2) of SEPP No.65:

- (2) *In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
- (a) *the advice (if any) obtained in accordance with subclause (1), and*
 - (b) *the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
 - (c) *the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

The following table outlines Council's assessment of the proposal against the design principles of SEPP No.65.

Principle, Assessment and Compliance / Non-Compliance
<p>Principle 1 - Context</p> <p>A site and locality description has been provided in Section 3 of this report, which provides a general description of the site, adjoining site and locality built context.</p> <p>The site is subject to site specific controls as prescribed in the Leichhardt Local Environmental Plan 2013 Amendment No. 1 and the George and Upward Streets Leichhardt Development Control Plan 2014 (site specific DCP) which establish context parameters for the site and include controls relating to height, form, setbacks, layout and general design. However, for reasons discussed in this report, including below under:</p> <ul style="list-style-type: none">• Principle 2 – <i>Scale</i>; and• Principle 10 - <i>Aesthetics</i>, <p>the proposal will be a poor response to its context and will be out of character with the area.</p>

Compliance with Principle 1?: No

Principle 2 – Scale

As identified above, the LEP amendment and site specific DCP controls for the site identify appropriate scale for building components on the site. Below are the height and setback controls depicted diagrammatically as extracted from the site specific controls.



In summary, the applicable setback and height controls are as follows:

- The required number of storeys range between 3 storeys along the perimeters of both street frontages and maximum heights and scales of between 4 storeys on Upward Street and 8 storeys on George Street (albeit the statutory height limit is 16m above existing ground level at the northern end and 32m above existing ground level at the southern end);
- Required minimum setbacks from street boundaries are as follows:
 - *Both Frontages*: Minimum 3m setback up to three storeys;
 - *Both Frontages*: Minimum 6m setback up to 4 storeys;
 - *George Street*: Minimum 11m setback between 5 and 7 storeys on the southern side of this building; and
 - *George Street*: Minimum 16m for the permitted eighth storey on George Street,
- Required minimum setbacks from the northern boundary as follows:
 - Provision of an unobstructed public site through link on the northern side of the site of 6m;
 - *George Street Building, Northern Side*: Minimum 6m for the first three storeys and 9m for the fourth storey;
 - *Upward Street Building*: Minimum 12m for the first 3 storeys and approximately 17m for the fourth storey.

- Required Setbacks from the southern boundary (adjacent to Kolotex) as follows:
 - *George Street building*: Minimum 6m setback; and
 - *Upward Street building*: Minimum nil setback.
- Building separation distances are to be generally consistent with the above and the NSW RFDC.

Balconies, sun shading devices, architectural features and the like are permitted to extend up to 1m into the building setback area to the George and Upward Street frontages for no more than 50% of the façade area.

Below are photomontages lodged with the amended plans (using the building information model which was used to produce the application drawings) and elevational drawings of the proposal as viewed from the public domain:



Photomontage 1: View from George Street (south)



Photomontage 2: View from corner of George Street and Treadgold Street South



Photomontage 3: View from Upward Street



Photomontage 4: View from Upward Street (south of site)



Figure 1: Development as viewed from George Street



Figure 2: Development as viewed from George and Treadgold Street South



Figure 3: Development as viewed from Upward Street

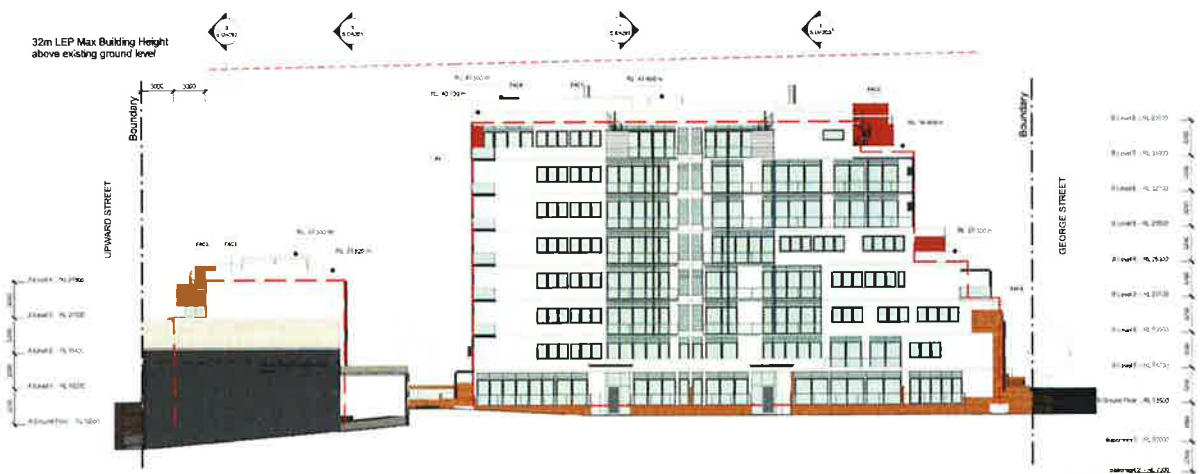


Figure 4: Southern side of development

While both buildings will not exceed the maximum height / number of storeys controls prescribed by the site specific controls, concerns are raised regarding the overall form,

bulk and massing of the development generally, which when combined with other concerns relating to building design, will result in a proposal that will have unsatisfactory streetscape impacts and that will be a poor response to its context. More specifically, the following scale concerns are particularly raised:

- The extent of structures / elements such as pergolas / shaded structures, projecting fin walls and / or spiral staircases extending into the setback area is considered excessive and many of these elements extend well in excess of 1m into the building setback areas contrary the site specific controls. These breaches are particularly unacceptable to the George Street building given the number of breaches and the building's sheer scale and maximum width of nearly 50m;
- Regarding the George Street building, setbacks within the development and to the southern and western boundaries are not consistent with the NSW RFDC, and the resultant sheer scale and form of the development when viewed from the public domain, particularly from the south, will be excessive, intrusive and unacceptable; and
- The extent of individual / private roof terraces / pools and associated accesses are not conducive to compact roof forms as required by the site specific controls. The applicant provides that the extent of roof terraces "*has no impact on the size of roof forms*", however, this cannot be the case as such measures as balustrading and accesses associated with these areas do have some form of impact on building height and bulk.

Please Note: The "Line of DCP Envelopes & Setbacks" depicted as a red dotted line and that identify the setback and height control limits as per the site specific controls are not shown accurately on various plans.

Further to the above, and as discussed in further detail below, there are concerns regarding the adequacy of on-site landscaping to both street frontages, within boundary setbacks and across the site generally. Large canopy trees should be capable of being provided around the perimeter of the site and within the site boundaries to assist in mitigating general scale concerns.

When all the above factors are combined, there are general public domain scale concerns, particularly as viewed to the south of the site on George Street, and a general failure to provide an appropriate transition to adjacent lower built scales, including to the adjacent Kolotex proposal (on George Street). In summary, the proposal is generally of an excessive and unacceptable scale and does not satisfy this principle.

Compliance with Principle 2?: No

Principle 3 - Built Form

See assessments above and below, particularly under Principles 2 (Scale) and 10 (Aesthetics). For reasons discussed in the above and below assessments, concerns are raised regarding building alignments and proportions and the general design to various elements of the development which will not be respectful of the character of the streetscape.

Further, the proposal will result in unsatisfactory amenity outcomes on the site for reasons outlines later in this assessment.

Compliance with Principle 3?: No

Principle 4 - Density

Notwithstanding concerns raised throughout this report, including relating to inappropriate public domain scale, inadequate deep soil / landscaping across the site, poor amenity outcomes and non-compliance with SEPP 65, the proposal complies with the floor space ratio development standard of 2.15:1 applicable to the site, achieving a floor space ratio of 2.14:1.

Compliance with Principle 4?: Yes

Principle 5 - Resource, Energy & Water Efficiency

The units / dwellings have been generally afforded flexible cross ventilation and sun control measures in the aim of reducing reliance on mechanical heating and cooling. Further, a BASIX Certificate has been prepared for the development that demonstrates that the proposed development satisfies the requirements of SEPP BASIX 2004 - had the proposal been considered suitable for approval, the development would have been required to adhere to the requirements set by the State Government's Building Sustainability Index requirements, from general construction requirements to fittings and fixtures.

However, given the inadequate deep soil zones across the site, the proposal has not optimised deep soil zones which would assist in reducing the volume of stormwater as per the objectives of the stormwater management controls of the NSW RFDC.

Compliance with Principle 5?: No

Principle 6 - Landscape

Detailed landscape plans have been provided which include a large internal courtyard area, landscaped corridors across the site and a passive recreation area in the north-western corner of the property. The locations of open space areas across the site are generally consistent with the site specific controls.

Notwithstanding the above, the following landscaping concerns are raised:

- The floor plans, the site cover and deep soil planting plans, and the landscape plans are not wholly consistent regarding the location of proposed soft landscaped / planting areas (see George Street frontage, northern Public Through Site Link and the passive recreation area);
- The proposal provides inadequate deep soil planting zones and landscaping at grade across the site – the site specific controls require a minimum deep soil planting zones (with no structures encroaching into its area below or above ground) equating to 10% of the total site area and must have a minimum dimension of 3m and distributed across the site, yet the proposal provides less than half the required deep soil planting area and these areas are confined to the north-western corner of the site, while site perimeter soft landscaping zones generally are deemed to be too narrow (very little exceed 2m width) to support high, large canopy trees in the long-term;
- There remains inadequate landscape buffer zones forward of proposed fencing / walls to street frontages and within street / boundary setbacks. The applicant provides that *"landscape buffer zones are inconsistent with the urban fabric of the Leichhardt LGA"*, with fences located on the street boundary being typical, however, the NSW RFDC encourages such landscaping be provided and the adjacent Kolotex proposal (currently under assessment) provides substantially larger landscape zones to street frontages; and

- Due to the narrowing of the public through-site link and various structures encroaching this area (e.g. courtyards, walls, pergolas, roofed common entry to the George Street building etc), it has not been demonstrated that there is a clear direct line of site through this link from George Street to Upward Street, nor is this link clearly identifiable as a public access link.

Council's Landscape Assessment Officer also requires that, should the consent authority resolve to approve the application, conditions should be imposed:

- Requiring that a minimum of four replacement canopy trees in 200 litre container size and that are capable of attaining a minimum mature height of 15 metres be shown on any approved landscape plan, and all proposed trees are to conform to the *NATSPEC guide for assessing the quality of and purchasing of landscape trees* by Ross Clarke, 2003; and
- Replacement trees be installed using suspended pavements over non-compacted soils in a single joined tree pit, incorporating a minimum of CityGreen® Strata Cell® (Series 30) systems or similar to ensure their long-term viability.

Further to the above, Council's Parks and Streetscapes Section raises no in-principle objections to the proposed landscaping within the George Street road reserve, however, all works within Council's road reservations would be subject to a detailed design at the Construction Certificate stage as part of a roadworks approval.

The proposal also involves providing for a high green wall on the George Street / Treadgold Street South corner in which Council raised concern regarding appropriateness and visual intrusion. The applicant provides that the green wall has been provided to ensure fire protection to the fire hydrant pump set that will be required to protect the property and which needs to be placed on a street boundary. Notwithstanding the applicant's justification regarding the green wall, concerns previously raised regarding this green wall being intrusive and incongruous in the streetscape remain.

Compliance with Principle 6?: No

Principle 7 - Amenity

Building Depth:

The rules of thumb in the RFDC recommend a maximum Building depth not exceeding 18m. For any building in excess of this depth the Code states: *The 18 metre guideline generally applies to street wall buildings, buildings with dual and opposite aspect and buildings with minimal side setbacks. Freestanding buildings (the big house or tower building types) may have greater depth than 18 metres only if they still achieve satisfactory daylight and natural ventilation. Use building depth in combination with other controls to ensure adequate amenity for building occupants. For example, a deeper plan may be acceptable where higher floor to ceiling heights allow sun access or where apartments have a wider frontage.* The eastern building has a building depth that exceeds 18m which was anticipated by the site specific controls. Notwithstanding the above, Dwelling E4 has a depth of greater than 18m, and although this dwelling is dual aspect, it will not receive any direct sunlight in mid-winter, and together with its location in the inside corner of the building and on the ground floor, the level of daylight access to it will be significantly compromised.

Open Space – Ground Level Apartments

The site specific DCP controls relax the minimum dimension and area requirements for courtyards to ground floor apartments as stipulated in the NSW RFDC subject to the private open space provided to these ground level apartments achieving a minimum area of 16sq m and a minimum dimension of 3m and be directly accessible from the living areas of the dwellings and capable of serving as an extension of the living area. Most of the ground level apartments do not meet either the minimum dimension or area requirements of the site specific controls (e.g. Dwellings A1-A6, Dwellings C1-C10, Dwellings D1-D3, Dwellings E1 and E4, Dwellings F1, F2 and F5). The applicant provides that, in some instances, for example, Dwellings A1, A2, A3 and A5, these units are dual aspect and divide the area required into private open space areas at the front and rear, hence enhancing amenity outcomes, however, the secondary courtyards of the units noted above are accessed via bedrooms and not living spaces as required by the site specific controls. The same in-principle concerns apply to other dwellings such as Dwelling D3 and E4 (the latter of which has solar / daylight access concerns). In other instances, such as Dwellings E1 and F5, which are single aspect, the dwellings and their courtyards are south facing with poor solar access.

Balconies

The amended scheme proposes a number of balconies to upper level north facing units within the George Street building that have a minimum dimension of less than 2m immediately adjacent to main living spaces. Adjustments to balcony alignments (taking into account dwelling separation requirements of the NSW RFDC) for example could have been readily carried out to achieve the required minimum dimension requirement of the NSW RFDC.

Daylight Access

In terms of daylight access:

- The applicant has not provided shadow diagrams in hourly increments between 9:00am and 3:00pm in mid-winter in plan and elevation (not perspective) demonstrating the extent of sunlight access achieved to living areas and private open space of all proposed dwellings; and
- The applicant has provided a solar access compliance table with calculations confirming the extent of solar access achieved to each unit between 9:00am and 3:00pm in mid-winter. However, the solar access compliance table is based on inadequate solar access diagrams (see above) and the calculations provided are incorrect - for example, the calculations provided suggest that dwellings are receiving solar access for three (3) hours between 9:00am and 3:00pm in mid-winter when they do not receive such access, with the table suggesting that there are seven (rather than six) hours of the day between 9:00am and 3:00pm in mid-winter.

Given the above, it has not been demonstrated that 70% of proposed dwellings receive three (3) hours solar access between 9:00am and 3:00pm in mid-winter as recommended by the NSW RFDC. If the applicant's solar access compliance table were to be relied upon (in the absence of adequate solar access diagrams) and the seventh hour of solar access identified in this table were excluded from the calculations, only around 51% of the dwellings can be concluded with certainty will receive the requisite 3 hour solar access between 9:00am and 3:00pm in mid-winter as prescribed in the NSW RFDC.

The site specific controls require that new development retain appropriate solar access to adjoining residential properties as follows:

- At least three (3) hours of direct sunlight to 50% of the private open space and into the living rooms between 9:00am and 3:00pm in mid-winter; and
- The existing levels of solar access between 9:00am and 3:00pm on June 21 (whichever is less).

Shadow diagrams in plan and elevation accompanied the amended plans.

Assessment of the shadow diagrams has confirmed that the proposal will not overshadow adjoining Tebbutt Street properties contrary to the solar access controls prescribed above (given that new shadows would fall across adjoining car parking areas and over roof areas and within shadow lines of adjacent built structures and would not reach any rear elevations of residential properties). However, Council was unable to verify whether the proposal will not overshadow adjoining Flood Street properties contrary to the site specific DCP controls given that:

- The shadow diagrams in plan showing existing shadows cast do not accurately show existing shadows cast accurately e.g. shadows cast by all existing adjoining built structures, including fences, are not shown. Accurate plan shadows showing existing shadows cast should also be overlaid with proposed shadows cast so that existing and proposed shadows cast are clearly distinguishable; and
- The shadow diagrams in elevation do not show opening locations of adjacent Flood Street properties.

The applicant has stated that the solar access analysis and shadow diagrams provided are adequate and / or the proposal is compliant with solar access controls, however, such claims are not compelling given the solar access analysis and shadow diagram deficiencies identified above.

Privacy

There are numerous privacy conflicts between dwellings and private open space both internal and external of the site mainly as a result of a combination of inadequate building separation contrary to the NSW RFDC, the excessive extent of glazing / glass balustrading and balconies / terraces, and the lack of adequate privacy mitigation measures. Examples of privacy conflicts include:

- Dwellings / balconies on Levels 5-8 of the George Street buildings adjacent to the southern and western boundaries will be setback well less than 18m from the proposed dwellings within the Kolotex proposal as required by the NSWRFDC;
- There are numerous privacy conflicts between dwellings within the George Street building, including Dwellings / balconies on Levels 5-8 which are setback a minimum of 12m from dwellings / balconies on the northern side of this building rather than 18m;
- The excessive extent of glazing and balconies and lack of adequate privacy mitigation measures in combination with proposed glass balustrading will not minimise overlooking of residences to the north, in particular on Nos. 42 and 44 George Street, as required by the site specific controls;
- The bedroom balcony of Unit C10 is less than 12m (as required by the RFDC) from the habitable openings of dwellings / balconies of dwellings within the Upward Street facing building; and
- Dwellings on Levels 5-8 in the north-western corner and on the southern side of

the George Street building have openings / balconies less than 18m from dwellings in the south-eastern corner of the Upward Street building.

Even allowing for the (inadequate) setbacks proposed by the application, the mere height of the two buildings means there would be lines of sight into neighbouring properties. While plantings / trees are proposed within building setbacks, perimeter landscaping zones generally are deemed to be too narrow (very little exceeds 2m width) to support high, large canopy trees in the long-term which could assist in providing some additional privacy mitigation.

Apartment Layout

The scheme has been generally well designed with regard to room dimensions and shapes and ease of access for all age groups and degrees of mobility.

The previous scheme proposed numerous single aspect apartments within the George Street building with kitchens greater than 8m from a window, however, the amended scheme has generally rectified this issue through internal adjustments. Notwithstanding the above, the back of the kitchen to affordable housing unit A4 within the Upward Street building will be greater than 8m from a window – this unit is single aspect and has an overall depth of greater than 8m, however, will gain access to several hours direct sunlight in mid-winter.

There remains a number of south facing single aspect residences within the George Street building (e.g. Dwellings E1, F5, E5, F10, E9, F15, E15, F20, E20, F25, E28, F30, E32, F35, E33, F39) with a depth of greater than 8m and that will not receive direct sunlight access. Positively however, the living room and back of kitchens of all these dwellings are less than 8m from a window / light source.

Acoustic Privacy

Acoustic privacy of particular concern include:

- Noise generating areas (e.g. lifts) are proposed adjacent to bedrooms;
- There are numerous instances of balconies of one unit being in too closer proximity / directly adjacent to the bedroom of an adjoining unit which could have been avoided through a more considered design in the aim of mitigating noise conflicts between residences;
- The extent of roof terraces and pools (15 individual rooftop gardens / terraces and 7 plunge pools) are excessive and not supported;
- Section 7.1 of the amended Acoustic Report has not correctly identified the background noise monitoring locations; and
- The Acoustic Report has not assessed the cumulative impact of all air conditioning units operating simultaneously and no acoustics details have been provided in relation to potential noise attenuation measures for air conditioning units and certifying that these measures will result in acceptable impacts on adjacent residential units and properties.

Storage

The amended plans provide greater details of storage area locations within the basement and within the dwellings themselves, however, the specific allocation of all storage cages to particular dwellings in the basement are not detailed. Notwithstanding the above, this matter could be readily conditioned in the event of the consent authority

contemplating approving the application.

Compliance with Principle 7?: No

Principle 8 - Safety & Security

The buildings have been designed to address the respective streets to facilitate overlooking of public and communal spaces and balconies and living areas are oriented to look towards the street where practical. Entrance-ways and ground areas will be capable of being well-lit in accordance with a lighting plan which could be recommended via condition, and security systems can provided to all vehicle and pedestrian entrances. Further, all parking has been provided in secure basement areas.

However, concern relates to the narrowing of the northern public through-site link and various structures encroaching this area (e.g. courtyards, walls, pergolas, roofed common entry to the George Street building etc), and as a result, there are entrapment points along the length of the link and the link does not appear to provide clear sight lines from George Street through to Upward Street. Further, the proposed landscape treatment is not considered to adequately delineate publicly accessible and private space i.e. the link is not readily identifiable as a public through-site link. The proposal is not considered to be an adequate response to Safer By Design principles.

Compliance with Principle 8?: No

Principle 9 - Social Dimensions and Housing Affordability

Many of the units will be one bedroom, which will assist in the provision of more affordable rental accommodation.

The proposed development will provide through site links and private and public outdoor spaces, including two new pedestrian access points east-west across the site, notwithstanding previous concerns raised above regarding safety of the public site through link and lack of delineation of public and private spaces.

The application was originally lodged without a Social Impact Assessment (SIA) as required by Part B of the LDCP2013 - *Connections*. The amended proposal included the required SIA, however, the SIA does not adequately assess social impacts. For example, the SIA does not project the number of residents and does not adequately assess infrastructure capacity, nor proposes strategies to mitigate the social impacts, specifically the impact of additional demand for social infrastructure. Key elements of social infrastructure such as schools (primary and secondary), Out of School Hours Care, and public open space and communal open space are already at capacity or under population pressure.

The appropriate location and design of affordable housing units to enable effective and efficient management of these units by an affordable housing provider has also not been addressed. Notwithstanding this, should the consent authority approve the application, this could be conditioned, together with the required equitable distribution of affordable housing throughout the development as Council does not consider it appropriate that all the units be clustered in one part of the site.

Compliance with Principle 9?: No

Principle 10 - Aesthetics

In addition to the setback / scale and lack of adequate landscaping concerns raised above, the proposal raises numerous concerns with respect to design. Design elements of particular concern include:

- Building facades to the George Street building that do not display adequate distinct vertical modulation / verticality and articulation;
- Building facades with excessive glazed elements;
- Excessive and inappropriate use of glass balustrades (both buildings);
- The use of inappropriate spiral staircases to access rooftops which also involves unnecessary and intrusive privacy walls which will be clearly visible from the public domain (both buildings);
- Lack of detail regarding air conditioning units and their location on plans and adequacy of screening to these units where provided on balconies and rooftops (both buildings). The applicant provides that the air conditioning units to upper level apartments will not be higher than balustrade height, however, upper level dwellings have glass balustrading to balconies which will provide no form of effective screening to these units and will be clearly visible from the public domain;
- Street frontages forward of buildings will be dominated by high fencing with high and solid front gate entries (combined with the lack of adequate landscaping as previously discussed); and
- All ground floor residences (both frontages) do not have an adequately defined address / front door that is clearly visible from the street.

Concerns were previously raised regarding building lines to the ground level apartments of the Upward Street building being incongruous, however, the photomontages submitted with the amended plans have alleviated this concern as the proposed building alignments provide additional and appropriate articulation to this building when viewed from the public domain.

Concerns were also previously raised regarding providing solid high walling / fencing to Upward Street adjacent to the passive recreation area, which appeared to be proposed based on the plans and information originally lodged. However, the applicant has subsequently provided more detailed information, including more adequate photomontages along Upward Street, which suggest that the passive recreation area will have a landscaped garden separating it from Upward Street and not high fencing to this frontage, which is satisfactory.

The proposal will be an intrusive and non-contributory built form, particularly on George Street, with a poor contextual relationship to its surroundings and that will be out of character with the streetscape.

Compliance with Principle 10?: No

The proposal has been considered against the NSW RFDC. The application is not considered satisfactory with respect to the intent and objectives of the following parts of the NSW RFDC:

Part 1 – Local Context:

- *Building Depth:* See assessment above under Principle 7 - *Amenity*;

- *Building Separation*: See assessments above, particularly under
 - Principle 2 - *Scale*; and
 - Principle 7 - *Amenity*;

Concern is particularly raised regarding the setbacks within the development and to the southern and western boundaries which are not consistent with the NSW RFDC with resultant privacy conflicts and public domain scale concerns; and

- *Building Setbacks*: See assessments above, particularly under
 - Principle 2 - *Scale*; and
 - Principle 6 – *Landscaping*;
 - Principle 7 – *Amenity*.

Concern is raised regarding inadequate landscape buffers to street frontages and setbacks (particularly to the George Street building).

Part 2 – Site Design:

- *Deep Soil Zone*: See assessment above under Principle 6 – *Landscape*;
- *Fences and Walls*: See assessments above under:
 - Principle 6 - *Landscaping*;
 - Principle 10 – *Aesthetics*;
- *Orientation*: Given the concerns raised above, the dwellings have not been orientated to maximise solar access to residential apartments and to protect the amenity (including privacy) of existing development as encouraged by the RFDC;
- *Landscaping and Planting on Structures*: See comments above under Principle 6 - *Landscaping*;
- *Open Space*: See assessment above under Principle 7 - *Amenity*;
- *Privacy*: See assessment above under Principle 7 - *Amenity*;
- *Building / Dwelling Entries*: See assessment above under Principle 10: *Aesthetics*;
- *Stormwater Management*: See assessment above under Principle 5 - *Resource, Energy & Water Efficiency*; and
- *Car Parking and Vehicle Access*: See below.

Car Parking and Vehicle Access

The applicant was requested to amend the basement design to accommodate a waste storage collection area accessible by a garbage truck as defined in Appendix D, Section 4 of the LDGP2013 as well as to accommodate removalist trucks, which means that a minimum headroom of 4.5m is required to be provided at the access ramp and within the carpark where access is provided to garbage trucks. Council also advised that providing such an area will also facilitate access for removalist trucks. The proposal has not been amended as requested and will not accommodate a garbage or removalist truck both in terms of manoeuvring and required headroom as required by Council. The applicant dismissed Council's request for a 4.5m head clearance by providing that:

- Garbage collection will be carried out by private contractor that have garbage trucks less than 3.3m height;
- "It is proposed that larger removalist vans that require a 4.5m clearance load and unload from the street"; and
- "Accommodating vehicles of this scale into the basement will require the construction of significant additional excavation and structure not only to

accommodate the additional head height required but also to accommodate the transfer of structure to allow for the truck to be manoeuvred within the basement. This manoeuvring is also likely to displace car parking which in all likelihood will need to be housed in an additional basement. Given the relative infrequency of this activity, sinking materials and embodied energy into this provision is wasteful, unnecessary and contrary to the principles of sustainable development.”

The applicant's reasons for not providing the required 4.5m head clearance are not compelling, for reasons including:

- Council does not support this development relying solely on a private contractor for garbage collection. Council is required to provide a waste collection service to the development under the Local Government Act and future residents will pay Council rates for such a service, and therefore, Council's garbage truck should be accommodated so that garbage bins are not lining the street on collection days. Further, while there is nothing preventing the owners of the site engaging a private contractor for garbage collection, it is not considered judicious to force future residents to pay rates for a Council waste collection service plus having to pay additional strata levies to cover the cost of engaging a private contractor for the same service;
- Utilising a private contractor and smaller vehicles for garbage collection is likely to involve increased garbage truck movements on any given week;
- The LDCP2013 clearly stipulates heights of standard garbage trucks (4.3m), and there was no impediment preventing the applicant from designing the proposal at the initial design stage (given the unconstrained nature of the site following the demolition of existing structures on the site) to facilitate access by such a vehicle and general management of waste within the site (which is required in this instance given the scale and number of residences proposed); and
- Providing a 4.5m clearance would allow access to the carpark for removalist vans / medium rigid vehicles to ensure their loading and unloading activities can be contained wholly within the site, rather than having to rely on the adjacent road reserves for such activities, particularly in an area of high street parking demand such as in this instance.

In summary, the basement should have been designed at the initial design stage to facilitate access / manoeuvring and parking for one medium rigid vehicle for waste collection and removalist vehicles. Alternatively, a loading / collection area at grade within the confines of the site that could accommodate Council garbage trucks and removalist trucks could have been considered as an alternative option similar to what is proposed at the adjoining Kolotex site, however, such an option would still require substantial redesign of the proposal.

Other concerns relating to car parking and internal layout include:

- The waste storage room is not considered to be in close-enough proximity to the proposed truck parking area;
- The carpark has not been designed to allow for the convenient movement of rubbish between the Upward Street building and the proposed waste storage area;
- All access aisles and ramps have not been designed as circulation roadways where required in accordance with Clauses 2.5.1 and 2.3.3 of AS/NZS 2890.1-2004 and that two vehicles are able to pass each other at the corners within the circulation roadway;

- Adequate widths have not been provided at the end of all blind aisles;
- The design does not allow for parking spaces to be enclosed (however, the consent authority could condition the development to not permit enclosure of these spaces);
- Visitor spaces are not distributed equitably throughout the basement areas, with particular regard to the lack of convenient access to the Upward Street building;
- Two car wash bays have been provided, however, they are considered to be of inadequate width to facilitate washing of vehicles; and
- Inadequate access is provided to the south-western bicycle parking area on Basement 2 level, providing all bicycle parking in this basement is not convenient for visitors and the proposed number of bicycle parking spaces is short (by 1) of the requirements stipulated in Clause C1.11 of the LDCP2013.

Part 3 – Building Design:

In terms of issues and concerns relating to the following considerations, see assessment above under Principle 7: *Amenity*:

- *Daylight Access*;
- *Natural Ventilation*;
- *Apartment Layout*;
- *Balconies*;
- *Apartment Layout*;
- *Acoustic Privacy*; and
- *Storage*.

In terms of Waste Management issues, see assessment above under Part 2 – Site Design - *Car Parking and Vehicle Access*. In summary, the basement design is unsatisfactory and not in accordance with Council's Engineers and Waste Services Section requirements, and fundamental redesign is required to rectify waste management issues.

It is considered that SEPP 65 deficiencies and concerns, particularly relating to scale, design, amenity and basement access / waste management are not readily rectifiable via condition as fundamental redesign is required.

Leichhardt Local Environmental Plan 2013 (LLEP2013)

The site is subject to (some of) the provisions of the LLEP2013, and these are addressed below.

Clause 1.2 – Aims of Plan

- 2) *The particular aims of this Plan are as follows:*
- a) to ensure that development applies the principles of ecologically sustainable development;*
 - b) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment;*
 - c) to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,*
 - d) to promote a high standard of urban design in the public and private domains,*

- e) *to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*
- f) *to maintain and enhance Leichhardt's urban environment,*
- g) *to ensure that land use zones are appropriately located to maximise access to sustainable transport, community services, employment and economic opportunities, public open space, recreation facilities and the waterfront,*
- h) *to promote accessible and diverse housing types, including the provision and retention of:*
 - i) *housing for seniors or people with a disability, and*
 - ii) *affordable housing,*
- i) *to provide for development that promotes road safety for all users, walkable neighbourhoods and accessibility, reduces car dependency and increases the use of active transport through walking, cycling and the use of public transport,*
- j) *to ensure an adequate supply of land and housing to facilitate:*
 - i) *employment and economic opportunities, and*
 - ii) *the provision of goods and services that meet the needs of the local and subregional population,*
- k) *to protect and enhance:*
 - i) *views and vistas of Sydney Harbour, Parramatta River, Callan Park and Leichhardt and Balmain civic precincts from roads and public vantage points, and*
 - ii) *views and view sharing from and between private dwellings,*
- l) *to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,*
- m) *to ensure that development provides high quality landscaped areas in residential developments,*
- n) *to protect, conserve and enhance the character and identity of the suburbs, places and landscapes of Leichhardt, including the natural, scientific and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, and of surface rock, remnant bushland, ridgelines and skylines,*
- o) *to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items,*
- p) *to provide for effective community participation and consultation for planning and development,*
- q) *to promote opportunities for equitable and inclusive social, cultural and community activities,*
- r) *to promote the health and well being of residents, business operators, workers and visitors,*
- s) *to ensure that development applies the principles of crime prevention through design to promote safer places and spaces,*
- t) *to ensure that development responds to, conserves, protects and enhances the natural environment, including terrestrial, aquatic and riparian habitats, bushland, biodiversity, wildlife habitat corridors and ecologically sensitive land,*
- u) *to promote energy conservation, water cycle management (incorporating water conservation, water reuse, catchment management, stormwater pollution control and flood risk management) and water sensitive urban design,*

- v) *to ensure that existing landforms and natural drainage systems are protected,*
- w) *to ensure that the risk to the community in areas subject to environmental hazards is minimised,*
- x) *to ensure that the impacts of climate change are mitigated and adapted to.*

Comment: Given the concerns raised in this report, the proposal is not considered to be consistent with Clauses 2(a)-(f), (l), (m), (n)-(o), (r)-(s) and (w) of the LLEP2013.

R3 Medium Density Residential Zone

Objectives (Clause 2.3)

- *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 provides 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.*

Comment: Whilst the design accommodates a variety of housing types in a manner consistent with the LEP requirements, Council is not of the opinion that the design achieves / maintains a high level of residential amenity. Further, the proposal has not adequately assessed infrastructure capacity or proposes strategies to mitigate the social impacts, specifically the impact of additional demand for social infrastructure either at capacity or under population pressures, and why services to meet the day to day needs of residents have not been provided. The proposal is considered to be an unsatisfactory response to the zone objectives.

Clause 4.1 - Minimum subdivision lot size

Strata subdivision is proposed as part of this application. No minimum lot size requirement applies to strata subdivision.

The site presently accommodates a number of lots which would need to be consolidated and readily conditionable in the event of an approval being granted.

Clause 4.3 – Building Heights

Maximum building height on this site is 16m on the northern side of the site and 32m on the southern side. The application complies with these restrictions.

Clause 4.4 Floor Space Ratio

A Floor Space Ratio on this site of 2.15:1 is permitted. The application complies based on the GFA calculation plans submitted with the application (at 2.14:1).

Clause 5.9 - Preservation of trees or vegetation

There are four trees on the site on the Upward Street frontage which are proposed to be removed. There is also a tree at No. 59 Upward Street that will be potentially impacted by the development. An *Arboricultural Impact Assessment* prepared by *Bluegum – Tree Care and Consultancy* was submitted with the application and an amended report was submitted with the amended plans. Based on an assessment of the documentation submitted and a site inspection of the property, Council's Landscape Assessment Officer concluded as follows regarding these trees (Tree Numbers nominated are as per the Arborist Report):

- **Tree 1:** Mature *Cinnamomum camphora* (Camphor Laurel) is located on the Upward Street frontage appears to be self-sown. In accordance with Council's Tree Management Controls, this tree is listed as a *Noxious Weed* (in accordance with *Noxious Weeds Act 1993*) and may be removed without Council approval;
- **Tree 2:** Semi-mature *Eucalyptus robusta* (Swamp Mahogany) is located on the Upward Street frontage. In accordance with the Controls, this tree does not meet with the requirements of a Prescribed Tree and as such, may be removed without Council approval;
- **Trees 3 and 4:** Mature *Cupressus sempervirens* (Italian Cypress) are located on the Upward Street frontage. Both trees were considered to be of good health and typical form, however, in accordance with the Controls, removal is supported as it is considered that the trees are located where the prevailing environmental conditions are unsuitable;
- **Tree 5:** Mature *Syzygium paniculatum* is located at the rear of 59 Upward Street. Should the consent authority resolve to approve the application, it is recommended that tree protection be implanted in accordance with the report, and the existing bitumen surface is to be removed by hand to minimise damage to the tree's root zone.

Conditions addressing the above requirements of Council's Landscape Assessment Officer can be readily imposed in the event of the consent authority approving the application.

Clause 5.10 - Heritage Conservation

The site is not a heritage conservation area, nor does it contain any listed heritage items. However, the site immediately adjoins and is the vicinity of heritage items, the closest being the row of semi-detached cottages at Nos. 59-71 Upward Street. It is considered that the urban design / landscaping concerns raised previously in this assessment would need to be satisfactorily resolved before it could be concluded that the proposal will not adversely impact on the setting of nearby heritage items listed above, in particular Nos. 59-61 Upward Street.

Clause 6.2 – Earthworks

Notwithstanding that the extent of excavation due to required remediation of the site remains unclear (see assessment under SEPP 55 above), conditions could be imposed, such as requiring the submission of a Noise and Vibration Management Plan, the provision of pre and post construction dilapidation reports of adjoining properties, the provision of details relating to adjoining property support / shoring, compliance with the recommendations of the submitted Geotechnical Report etc in

the aim of mitigating potential impacts on adjoining structures, should the consent authority be of the mind to approve the application.

Clause 6.4 – Stormwater Management

Given concerns raised in this assessment relating to inadequate deep soil and landscape zones on the site, is unclear as to how the proposal maximises the use of water permeable surfaces in accordance with Subclause 3(a) of this Clause.

Conditions could be readily imposed addressing stormwater management related matters in the event of the consent authority approving the application.

Clause 6.13 Diverse housing

This Clause provides that development consent must not be granted to development to which this clause applies unless:

- At least 25% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include self-contained studio dwellings or one-bedroom dwellings, or both, and
- No more than 30% of the total number of dwellings (to the nearest whole number of dwellings) forming part of the development will include dwellings with at least 3 bedrooms.

Of the 123 dwellings proposed, 48% are one bedroom dwellings and 13% are three bedroom dwellings, and hence, the proposal will comply with this clause.

6.14 Development control plans for certain development

Comment: Amendment 1 to LEP 2013 exempts the subject site from this provision.

(a)(ii) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft Amendment to State Environmental Planning Policy No.65 (Design of Residential Flat Buildings) – Amendment No. 3; and
- Draft Leichhardt Local Environment Plan 2013 – Amendment No.4.

Draft Amendment to State Environmental Planning Policy No.65 (Design of Residential Flat Buildings) – Amendment No. 3 commenced exhibition on 23 September 2014 and is therefore a matter for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979. The Amendment applies similar design principles and performance criteria as contained in the current SEPP, and consideration of the proposal against these principles and criteria has concluded that, for reasons previously identified, the proposal will not satisfy the following principles of the Draft Policy:

- Principle 1 – *Context and Neighbourhood Character*;
- Principle 2 – *Built Form and Scale*;
- Principle 5 – *Landscaping*;
- Principle 6 – *Amenity*;
- Principle 7 – *Safety*;
- Principle 8 – *Housing Diversity and Social Interaction*; and

- Principle 9 – *Architectural Expression*.

There are no additional provisions of Leichhardt Local Environmental Plan 2013 - Amendment 4 which are of relevance to this assessment.

(a)(iii) Development Control Plans

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

- George and Upward Streets, Leichhardt Development Control Plan 2014
- Leichhardt Development Control Plan 2013

George and Upward Streets, Leichhardt Development Control Plan 2014

The site is subject to the '*George and Upward Streets, Leichhardt Development Control Plan 2014*' site specific controls.

Pursuant to Clause 1.5 of the George and Upward Streets DCP, which states that *"the consent authority is to be flexible in applying the controls and allow reasonable alternative solutions that achieve the objectives of the controls"*. Notwithstanding the above, there are various breaches of / or lack of demonstrated compliance with the intent of applicable site specific controls which are not supported due to the concerns raised above, including with regard to unsatisfactory streetscape, scale and on-site and off-site amenity outcomes, inadequate landscaping at grade across the site, insufficient access for Council waste management vehicles and for removalist trucks and safety and security issues pertaining to the site link, and consequently, poor response to the zone objectives. Specific non-compliances and concerns include:

- Section 2.1 – Site Layout and Building Design:
 - The George Street building does not adequately integrate with the adjoining and neighbouring buildings through an appropriate transition in accordance with Objective O1;
 - The general design is not responsive or sympathetic to the cultural character of the existing urban landscape as required by Objective O2;
 - Building orientation has not been used to minimise amenity impacts on neighbouring buildings as required by Objective O3;
 - The proposal has not maximised the benefits of communal open space as required by Objective O4;
 - The applicant submits that building footprints (including balconies) will be 53% which exceed 50% of the site area contrary to Control C2 – there is no impediment to achieving compliance with this control;
 - Roof elements are proposed that do not demonstrate satisfactory streetscape and amenity impacts as required by Control C3; and
 - The proposal does not comply / has not demonstrated compliance with the building separation, depth and solar access and privacy controls of the site specific controls and NSW RDFC as required by Controls C1 and C10.
- Section 2.2 – Building Design:
 - The proposal has not ensured that buildings are wholly constructed of appropriate finishes appropriately respond to the area in accordance with Objective O2;
 - Building design, in particular to George Street, will not be of a high quality appearance as required by Objective O3;

- The George Street building does not display a distinct or adequate vertical modulation as required by Control C4;
- The buildings involve structures such as pergolas, projecting fin walls and / or spiral staircases extending well in excess of 1m into the building setback areas contrary to Control C5;
- The building design and articulation to the George Street in particular does not contribute to the character of the streetscape as required by Controls C6 and C7;
- The extent of roof terraces / pools and associated accesses are not conducive to compact roof forms as required by Control C8;
- Inadequate detail has been provided regarding air conditioning units and proposed screening to these units and how these units have been located and designed to be screened from view from other dwellings, other sites and the public domain as required by Control C9; and
- The bulk of the George Street building, particularly to the south, is not appropriately articulated or steps down appropriately to create proportional relationships with its context as required by Control C10;
- Section 2.3 – Residential Amenity:
 - The proposal has not demonstrated that solar access to habitable rooms and private open space has been optimised as required by Objective O1;
 - The proposal has not demonstrated that direct overlooking to adjoining dwellings and their private open space has been minimised in accordance with Objective O2, C4 and C5;
 - The proposal has not demonstrated compliance with Controls C1 and C2 regarding solar access for proposed residences and retention of solar access to adjoining properties in accordance with the NSW RFDC and the site specific controls; and
 - The proposal has not demonstrated that noise from external sources has been mitigated in accordance with Control C6.
- Section 2.4 – Open Space and Landscaping:
 - Inadequate soft landscape provision has been provided across the site, with the proposal not being wholly consistent with indicative soft landscaped area zones shown in Figure 8 as per Control C1 (as previously noted, actual soft landscaped zones are inconsistent between plans);
 - Proposed deep soil planting is not in accordance with Control C2 (see SEPP 65 assessment above);
 - Private open space provision to all residences are not in accordance with RFDC or the site specific DCP controls as required by Control C9; and
 - Communal unroofed open space are encouraged on roof areas, not private rooftop terraces as proposed (Control C12).

Note: Powerlines are to be located underground in accordance with C8 which could be conditioned.
- Section 2.5– Access, Movement and Parking:
 - Concern relates to the narrowing of the northern public through-site link and various structures encroaching this area (e.g. courtyards and walls), and as a result, that the link does not appear to provide clear sight lines from George Street through to Upward Street in accordance with Clause C1;
 - Only one car share space is provided rather than three (rounded up to the nearest whole number) as required by Clause C7;
 - Bicycle parking has not been provided in accordance with Clause C1.11 of LDCP2013 as required by Control C8 (see previous discussions); and

- No detail has been provided regarding legal covenants, notations and easement for through site link as stipulated by Control C10.
- **Section 2.6 - Safety and Security:**
 - All ground floor residences do not have an adequately defined address / front door that are visible from the street as required by Control C4.
- **Section 2.7 – Flood and Stormwater:**
 - The proposal is not considered to have reduced peak stormwater flows (given the inadequate deep soil zone and landscaping across the site) in accordance with Objective O2;
- **Section 2.8 –Waste Management:**
 - Waste Management is not consistent with the provisions of the LDCP2013 as required by Objective O1; and
 - It has not been demonstrated that management of on-site waste is adequately provided wholly within the development as required by Control C1.

In light of the above, the proposal is considered to be a poor response to the Purpose, Aims and Objectives as prescribed in Section 1.4, specifically:

- The proposal does not communicate the objectives and controls against which the consent authority will assess future Development Applications;
- The proposal does not ensure the orderly, efficient and environmentally sensitive development of the site;
- The proposal does not minimise impacts on the residential amenity of adjacent properties; and
- The proposal does not promote a high quality urban design outcome for the site.

Leichhardt Development Control Plan 2013

Pursuant to Clause C1.3 of the George and Upward Streets, Leichhardt Development Control Plan 2014, the following provisions applicable to the proposal must be considered:

- Part A – Introductions;
- Part B – Connections;
- Part C- Place, specifically:
 - C1.1 - Site and Context Analysis;
 - C1.2 - Demolition;
 - C1.5 - Corner Sites;
 - C1.6 - Subdivision;
 - C1.7 - Site Facilities;
 - C1.8 - Contamination;
 - C1.9 - Safety by Design;
 - C1.10 - Equity of Access and Mobility;
 - C1.11 - Parking (and Bicycle Parking);
 - C1.12 - Landscaping;
 - C1.13 - Open Space Design Within the Public Domain;
 - C1.14 - Tree Management;
 - C1.21 - Green Roofs and Green Living Walls
 - C3.14 - Adaptable Housing
- Part D – Energy and Waste;
- Part E – Water; and
- Part F – Food

The provisions above are largely replicated in the site specific DCP and in other Instruments/controls such as SEPP 55 and SEPP 65 and have been largely addressed elsewhere in this assessment. The following assessment expands on site facilities and parking (and traffic) considerations.

Clause C1.7 – Site Facilities

In terms of site facilities considerations:

- There is a lack of convenient change room/toilet amenities in connection with the at-grade communal swimming pool (they are located in the basement); and
- The applicant provides that “letter boxes have been located at the rear of the north-east entry to the site and are shown on DA100”, however, the nominated plan does not show this provision, nor is it clear regarding letterbox provision generally across the site.

Clause C1.11 – Car Parking (Includes Traffic Assessment)

a) On-site Car Parking Provision – Numerical Controls

The amended proposal involves providing parking for 122 car spaces on the site comprising 112 resident spaces, 9 visitor spaces and a single car share space. The maximum number of permitted spaces on the site under the site specific controls is 125 (112 general spaces and 13 visitor spaces), and if the minimum parking rates of Clause C1.11 of the LDCP2013 were applied to the development, a total of 72 on-site spaces would be required. Therefore, the proposal provides on-site car parking that is well over minimum parking rates of the LDCP2013 and just below stipulated maximum parking rates in the site specific controls. Given the above, the proposal is considered to provide adequate on-site parking provision for residents generally, notwithstanding concerns relating to inadequate car share spaces (additional car share spaces could be conditioned in the event that the consent authority seeks to approve the application).

b) Construction Traffic Management

No details have been provided regarding management of the significant construction traffic that would be associated with the development. Council requested that a Construction Traffic Management Plan (CTMP) be submitted:

- Providing details on size, times and number of truck movements using the following routes:
 - Ingress route via Parramatta Road into George Street; and
 - Egress route via Treadgold Street South – Flood Street,
- Requiring manned traffic control at the following additional intersections during hours of operation to reduce any potential impact of opposing vehicle manoeuvres:
 - Flood Street/Treadgold Street South;
 - Treadgold Street South/George Street; and
 - George Street/Parramatta Road.
- Noting that under manned traffic control, Treadgold Street South could be maintained as two way traffic, thus retaining existing residential access, but subject to the removal of the existing on street parking.

Council also noted that construction management to be consistent with the advice given in relation to the adjacent (Kolotex) development.

The applicant did not provide the CTMP as requested and the applicant's amended Traffic Impact Assessment prepared by Traffix Traffic and Transport Planners responded to Council's request by advising that the requirement of a CTMP is onerous and unnecessary and the consent authority could readily condition the above. Council's Engineer's consider that the CTMP request is not unreasonable and should be provided in order to address the significant truck movements that will be associated with demolition and construction, noting the constraints of access from Parramatta Road and the need to exit through narrow adjacent (including residential areas) streets. Providing such a plan would allow the consent authority to endorse proposed traffic and parking management practices during the demolition, excavation and construction stages, including relating to contractor parking arrangements, truck routes, loading and unloading zones and hours of operation.

c) Traffic - Proposed Development

While the Transport Impact Assessment report submitted with the application carries out an assessment of the increased traffic that is likely to be generated by the completed development, no analysis of its impact on the surrounding road network and a SIDRA analysis has been carried out for existing conditions and future development for the AM and PM peak hours on a weekday and a Saturday that includes the cumulative impacts of the surrounding developments (including Kolotex) of the following intersections:

- Lords Road and Upward Street;
- McAleer Street and Upward Street;
- McAleer Street and George Street;
- Treadgold Street North and George Street;
- Treadgold Street North and Flood Street;
- Lords Road/Flood Street;
- Treadgold Street South and George Street;
- Treadgold Street South and Flood Street;
- Parramatta Road and George Street; and
- Parramatta Road and Flood Street.

The applicant was requested to address this issue, however, the updated Traffic Impact Assessment notes that:

- Appendix C - *Net Increase in Traffic Volumes at Key Intersections* of said report demonstrates that the net increase in traffic volumes at key intersections in the vicinity of the site will be minimal; and
- The anticipated distribution of traffic volumes is consistent with a similar analysis provided by the traffic consultants for the adjacent Kolotex site, which includes a cumulative traffic assessment of the overall George-Upward Street precinct redevelopment, which includes detailed intersection modelling of all key intersections in the vicinity of the site,

and as such, the cumulative assessment / intersection modelling requested by Council is not considered necessary. Council's Engineers do not consider this response to be acceptable, as the applicant should provide their own traffic analysis in support of their application based on the subject application and anticipated proposed development yields, including across the adjacent Kolotex site.

Council also remains concerned that the proposal does not address the existing constraints to manoeuvrability and sight lines at Treadgold Street South. In this regard, the existing road width at the Flood Street intersection is limited, and restricts easy vehicle movements. In the event that the proposal is approved by the consent authority contrary to the recommendation of this report, Council requires that Treadgold Street North and Treadgold Street South is made into a clockwise one-way pair, with a roundabout provided at the intersection of Treadgold Street North and Flood Street, to improve the management of traffic flows at each intersection. Notwithstanding the above, Council's Engineers could provide conditions relating to required roadworks to address this issue.

As previously noted, adequate provision has not been provided for service (including waste) and removalist vehicles, which is required given the scale of the development, and fundamental redesign of the development is required to address this issue.

In light of the above considerations and for reasons outlined elsewhere in this report, the proposal is unsatisfactory or has not demonstrated compliance with:

- Clause B1.1– Connections and Planning for Active Living;
- Clause B2.1 - Planning for Active Living;
- Clause B3.1 – Social Impact Assessment;
- Clause C1.1 - Site and Context Analysis;
- Clause C1.5 - Corner Sites;
- Clause C1.7 - Site Facilities;
- Clause C1.8 - Contamination;
- Clause C1.9 - Safety by Design;
- Clause C1.11 - Parking (and Bicycle Parking);
- Clause C1.12 - Landscaping;
- Clause C1.13 - Open Space Design Within the Public Domain;
- Clause C1.21 - Green Roofs and Green Living Walls;
- Clause D2.1 – General Requirements (Waste);
- Clause D2.3 – Residential Development (Waste); and
- Clause E1.2 – Water Management.

(a)(iv) Environmental Planning and Assessment Regulation 2000

The Development Application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000 and Clause 92(1)(b) of the Regulation requires Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. In the event of an approval recommendation, Council would normally require a construction / demolition management plan to be submitted prior to the issue of a Construction Certificate by condition. However, as previously noted, Council's Engineers consider that a Construction and Traffic Management Plan should have been provided for assessment as part of the application in order to address the significant truck movements that will be associated with demolition and construction, noting the constraints of access from Parramatta Road and the need to exit through narrow adjacent (including residential areas) streets. Providing such a plan would allow the consent authority to endorse proposed traffic and parking management practices during the demolition, excavation and construction stages, including relating to

contractor parking arrangements, truck routes, loading and unloading zones and hours of operation.

(b) The likely environmental both natural and built environment, social and economic impacts in the locality

The assessment of the Development Application demonstrates that the proposal will have adverse and / or unresolved environmental social impacts on the locality and poor amenity outcomes on the site.

(c) The suitability of the site for the development

As discussed above, the suitability of the site for residential development has not been adequately demonstrated, it is considered that the proposal will have an adverse impact on the locality, and it has not been demonstrated that the development is an adequate response to the site's zoning objectives. In light of the concerns raised in this assessment, it is considered that the site is unsuitable for the development as lodged.

(d) Any submissions made in accordance with the Act or the regulations

The Development Application was notified for a period of six weeks. The notification period was from 9th January 2014 to 20th February 2015.

The notification of the application included:

- Letters sent to 1428 properties.
- A yellow site notice placed on the site.
- Listing under the notification section on Council's website.

A total of 116 objections were received during the advertising period. In summary, the objection letters fall into three categories as follows:

- Signatory to a pro-forma objection letter provided by Save Our Suburb Leichhardt – no additional/customised comment included;
- Signatory to a pro-forma objection letter provided by Save Our Suburb Leichhardt –additional/customised comment was included; and
- Personalised letter submitted; and
- Leichhardt Councillors Submission.

The following information is provided in response to the issues raised in the objections.

- The site is highly contaminated and is significant enough to warrant regulation under the Contaminated Land Management Act 1997 and this contamination poses a serious risk to the health and safety of current and future residents of the site and surrounding area. This contamination once disturbed by demolition and development could pose a serious threat to the community's health and wellbeing. In this regard:
 - Can the developer successfully remediate (both above and underground) a site such to a degree that it habitable in the future?
 - How can the developer ensure the health and well-being of the local community while such serious, hazardous remediation is taking place?
 - The groundwater on the site is highly contaminated and is likely to move in an unpredictable way if the development goes ahead, possibly

- threatening local water courses in the future. This needs to be contained and dealt with before any other works can be carried out on this site.
- Where is the management plan for the clearing / removal of asbestos and other contaminants and how will the safe and effective remediation and clearing of the site be managed? The current application does not adequately address these issues to ensure the safety of residents and nearby staff employed at Best and Less at No. 657-673 Parramatta Road, and it is critical that Council inspect the demolition site to enforce the safety requirements with regards to asbestos removal and disposal; and
- What insurance is required to ensure local community is covered in the event the developer's controls are inadequate? Who is going to check the level of contamination? What is the comeback on the major polluter at this site- If it is the current owner and/or user, do they wash their hands of it and walk away?
- As there is no certainty that the site can be remediated for the proposed residential use, development consent can not be granted.

Concern is also raised regarding the dust and dirt emanating from the site during demolition at the back door of No. 36 Flood Street.

Comment: The issue of contamination has been addressed in detail in the body of the assessment report. In conclusion, the site is highly contaminated and concern is raised that the proposed remediation strategy to render the site suitable for residential use, including removal of ground contaminants and the management of asbestos-impacted fill materials, inadequate.

Any approval at this site would need to include conditions requiring compliance with an adequate RAP and appropriate conditions relating to the protection of surrounding residents and business staff with respect to asbestos, dust emissions etc, which would be monitored by appropriately qualified consultants and the Principal Certifying Authority.

- The demolition of the site will release vermin which will migrate to adjacent and nearby properties. Who shall we send the bill to for the subsequent pest extermination?

Comment: While the migration of vermin to adjacent sites may occur during the demolition stage, it will be the responsibility of neighbouring properties to organise their own pest control in the event of such occurrence.

- A letter has arrived from Leichhardt Green {as that company is named} that they have been issued with a Complying Development Certificate and that all structures will be demolished by September 2015. The Department that issued such compliance is cynical and acting in complete disregard of the people of Leichhardt. Leichhardt Green's letter head shows a tree, but there is nothing "green" about that firm and all we can see ahead is another battle to resist their corporate greed. By the time they have finished there will be no trees only ugly concrete towers.

Concern is raised that no agreement on the final site's plans have been agreed upon, yet progressing with site preparation appears to be slightly presumptuous. Logic would suggest that having finalised agreed plans would make more sense before 'levelling' a site that is still to be agreed upon as to

what the final plans are, and given the initial plans were already rejected for the Kolotex site.

Comment: A Complying Development Certificate (DCDP/2015/32) has been issued for demolition of the existing buildings at the adjacent Kolotex site. State planning legislation (State Environmental Planning Policy Exempt and Complying Code 2008) allows for the issuing of a Complying Development for demolition in non-Conservation Areas (i.e. on the Kolotex site), regardless of whether the final form of replacement structures has been determined or approved.

- The NSW Government has announced a whole series of 'development projects' including vast tollway construction and high density apartment buildings, and yet, it has not released proper business plans nor adequate arguments for what is proposed. Before embarking on projects such as Labelcraft, the Government needs to release all the pertinent documents and must genuinely consult with those affected (i.e. the public).

Comment: Noted.

- The height / number of stories of the proposal is contrary to Council's Leichhardt Local Environmental Plan 2000 (LLEP2000), including with respect to the required floor space ratio of 0.5:1. A floor space ratio of 1:1 for industrial development would prevent heights to exceed four stories.

Comment: The LLEP2000 is not the current instrument. The proposal is now subject to an LEP 2013 and site specific amendment and a site specific DCP, and an assessment of the proposal against all these controls has been carried out previously in this report.

- In terms of height, scale and design:
 - The proposal fails in terms of its urban design and its architectural merit and the presentation to the public domain is inconsistent with the character of the area and results in unacceptable visual amenity impacts. The proposal seeks to build high (higher than anything else in the area) towers of a size, scale and design / architecture that will be unsympathetic and out of context with the area of highly valued heritage (surrounding dwellings) and that does not take into account the character and landscape of its surrounds. The wall length to George Street is considered excessive, and together with factors such as the development's inadequate setbacks from narrow George Street and Treadgold Street South, the height and scale of the development to the northern, eastern and western sides, the proposal is excessive and overbearing and intolerable on its neighbours, and will set a dangerous precedent for future high-rise developments in this historic low scale area;
 - The proposed development does not conform to either the Council's DCP 2014, State Government controls or the judgment of the Joint Regional Planning Panel's ruling on the adjoining Kolotex site that developments should have a reasonable transition to the scale of existing surrounding buildings. If approved, this development will change the entire streetscape and overall look and feel of Leichhardt; and
 - A scheme with a reduced height, bulk and scale, including along the boundaries, and that is designed to protect the amenity of surrounding

properties is warranted rather than designing the development to the maximum FSR and maximum building heights. Council should place a limit on the height of these towers and all such future works to be no more than three storeys and there are too many apartments for the size of the land.

Comment: The site is governed by an LEP site specific amendment and a site specific Development Control Plan. The application must be assessed for its compliance with those planning controls, along with any other planning controls applying by virtue of other Instruments such as State Environmental Planning Policies. The site specific controls allow buildings of between 16m and 32m in total, with the DCP recommendations for specific building heights and setbacks being open to flexibility in order to improve designated outcomes. Notwithstanding the above, the assessment of the proposal as detailed above have raised numerous concerns, including relating to poor urban design outcomes, unacceptable scale / transition to adjacent lower built scales, including to the adjacent Kolotex proposal (on George Street), and unsatisfactory amenity outcomes, and for these and other reasons, it is considered that the proposal warrants refusal in its current form.

No controls have been imposed as to the maximum number of dwelling units allowed.

- Overdevelopment of the site. Concern is raised that:
 - The proposal represents corporate greed (developers / rich corporations) by achieving an enormous profit at the expense of the environment and the people who live in the area and their current standard of living, turning the Leichhardt we know into a densely populated suburb, which is already the most densely populated in Sydney and has one of the lowest ratios of open space per resident in the metropolitan area; and
 - The rezoning of the Kolotex and Labelcraft sites did not anticipate development yield proposed across both sites, which was predicated on up to 350 new dwellings and a total of 280 to 360 car parking spaces.

Comment: As outlined previously in this report, the proposal raises a number of concerns, including regarding general scale across the site as well as breaches of site coverage and deep soil zone controls, and unsatisfactory amenity outcomes, and as a result, the density of development is unsupportable.

The site specific controls did not place a cap on the number of dwellings permitted on either the Labelcraft or adjacent Kolotex sites. However, in its Planning Proposal report dated August 2013, the Department of Planning and Infrastructure anticipated up to 350 new homes would be provided across both sites.

- Objection is raised to the area becoming a concrete jungle. There is insufficient communal open space in accordance with SEPP 65 for residents and parkland, playgrounds and public open space associated with the development. The perimeter "green space" is narrow, inconsequential and inadequate (to assist in privacy mitigation and reducing scale and bulk impacts), and there will be insufficient deep soil areas providing little opportunity for the planting of trees on the site and reducing stormwater runoff and allowing for the infiltration of rainwater to the water table.

Any public open space demanded by the site being transferred away to other LMC areas is opposed and additional parkland should be provided.

Comment: There seems to be some misunderstanding that the communal open spaces identified in the DCP is meant to be publicly accessible open space. There is no such requirement in the DCP. The proposal will provide in excess of 20% communal open space as per the site specific DCP controls.

Notwithstanding the above, as previously noted, the proposal exceeds site coverage controls and provides inadequate deep soil and landscaping generally across the site, and for these and other reasons, the proposal is not supported.

- The public through-site link is not readily identifiable as such due to structures encroaching this area, but rather, a private entry area for the use of residents only.

Comment: Agreed – see assessment previously in this report, including under SEPP 65.

- Unacceptable car parking impacts. Car parking concerns, including:
 - Insufficient off-street car parking (parking of one space per unit) in an area that already has parking problems (due to very few homes having off-street parking), such as George Street. Parking was a very serious problem before the adjacent Kolotex closed down and has since increased with the Best and Less development. The proposal will increase existing parking on-street pressures as a result of the residents and visitors generated by this development, regardless of new developer-led theories that limiting parking spaces encourages people to dispense with cars. In this regard, based on a 2013 ABS study of Sydney apartment occupants, it was shown that there were on average 0.675 cars per resident, and then using an additional 2011 study by the ABS, and based on the applicant's current apartment configuration, there will be on average 1.94 occupants per apartment - therefore with 123 apartments x 1.94 occupants per apartment = 238.6 occupants x 0.675 cars = 161 cars. Add to this the massive adjacent Kolotex development with 288 apartments and 275 spaces and expected 377 cars, where are people from these apartments going to park their additional / extra cars. Each apartment requires a minimum of one parking space with larger dwellings requiring more, and visitor parking also provided. The impact on parking in surrounding streets will be catastrophic.
 - The proposed addition of approximately four (4) extra parallel parking spaces in George Street has not been evidenced in the application;
 - The surrounding streets are already too narrow. The plans seek to provide parking on either side of George Street despite this street being 8 metres wide kerb to kerb, and which is currently two way with parking restrictions in part. Such parking would not allow the residents of homes on Flood Street to enter via their rear entrances to their garages, and worse is to be found on the very last page of the enormous file plan where from Treadgold Street to Parramatta Road, there would be no parking on one side of Flood Street - this means residents of Flood street could neither park at the front or the rear of their properties;

- The proposal does not provide car share spaces which is against Council policy;
- No dedicated parking bays for delivery vehicles are proposed;
- Increased incidence of residents parking across driveways; and
- The local area does not have the capacity to accommodate parking for the extra workers associated with this application and where are the large demolition / construction trucks going to park. Objection is raised to the statement that “workers will use public transport rather than cars as the area is close to public transport”. There is no evidence to support this statement. Our direct experience when No 17 -25 Beeson St was being developed was workers drove to work, parked in our street and surrounding streets, arrived early, were noisy and had no consideration for residents at all. A proper parking plan just like a proper Traffic Management Plan that deals with traffic control monitoring needs to be included in the application.

Also, regarding NSW Government reductions in car parking what strategy will be in place to manage overflow onto the street.

Comment: In response to the above:

- The proposal provides well in excess of the minimum required car parking and almost meets maximum parking controls of the site specific DCP controls;
- The applicant's revised Traffic Study details diagrammatically the location of the additional four (4) on-street parking spaces, and Council's Engineer's raise no objections to the proposal in this regard;
- In the event of the consent authority approving the application, appropriate roadworks conditions could be readily imposed to ensure that surrounding streets are able to function to an appropriate standard in terms of road widths, vehicular manoeuvrability, the provision of acceptable sight lines for pedestrians and other road users etc. This includes a requirement that Treadgold Street North and Treadgold Street South is made into a clockwise one-way pair, with a roundabout provided at the intersection of Treadgold Street North and Flood Street, to improve the management of traffic flows at each intersection;
- The amended proposal includes 1 car share space in the basement, however, 3 spaces are required by the site specific controls, which could be conditioned in the event of the consent authority approving the application;
- As noted previously in this report, the basement car park has not been designed to accommodate a medium rigid vehicle (e.g. Council's garbage trucks and for removalist vans) in terms of both headroom and manoeuvrability, which is unsatisfactory, and fundamental redesign of the development would be required to resolve this issue;
- There is nothing to substantiate the claim that the proposal itself will result in an increase in incidents of vehicles parking across driveways; and
- As noted previously in this report, a Construction Traffic Management Plan was not submitted with the application, which Council's Engineer's consider to be warranted, as it would allow the consent authority to endorse proposed traffic and parking management practices during the demolition, excavation and construction stages, including relating to contractor parking arrangements.

- The proposal will generate unacceptable / overwhelming traffic congestion created by cars entering and exiting the development, including when taking into account the adjacent Kolotex development. The surrounding road network will not be able to cope with increased cars / road traffic volumes within the neighbourhood where traffic problems and gridlock already exist, despite the conclusions of the applicants Traffic and Parking Study.

Traffic related concerns include:

- The natural point of exit for vehicles leaving the site will be Treadgold Street North, which is not an intersection designed for a high density of traffic. Visibility when trying to turn into Flood Street is difficult at the best of times;
- Concern is raised that traffic travelling from the site to the City West Link, will use Upward Street as a means to travel from the site and down Lords Rd, rather than using the Treadgold Street/Flood Street exit which will exasperate the issues which local residents already have on Upward Street;
- The proposal unacceptably / detrimentally increase traffic loads on nearby roads and streets. The impact of the additional traffic will be compounded by the operations of Marketplace. The area already has to cope with traffic from nearby Marketplace and Parramatta Road, Flood Street, Marion Street, Tebbutt Street, Hathern Street, Lords Road, Foster Street and Darley Road which are already the subject of traffic jams and / or gridlock, including on the heavily congested corners of Marion and Flood Streets, Flood Street and Parramatta Road, Lords Road and Foster Street, Foster and Marion Streets. Driving south to Lewisham is also already problematic.
- Traffic studies commissioned prior to the rezoning of the two sites has been proven deficient by independent studies commissioned by Council. George Street may be slightly wider than Upward Street, but it is still a narrow street (three-car width) with risky exit points in narrow Treadgold Street and Treadgold Street North, and Parramatta Road. Exiting George Street at Parramatta Road requires a left turn into the middle lane of Parramatta Road – an already risky exercise. Two exit points of Parramatta Road and Treadgold Street North are not within the boundaries of the Labelcraft redevelopment, and will therefore remain constricted and hazardous and cannot support higher traffic volumes;
- An inadequate Traffic Management Plan has been provided, including during the demolition, remediation and redevelopment stages. How the traffic will be managed is not documented clearly in the plan. There is no mention of how the local roads will handle the increase heavy traffic flow. There is no mention of what hours the trucks can enter the area and concern is raised regarding large trucks entering the area in the early hours of the morning and then trucks waiting with their engines running until 7:00am when work commences. How will such a problem be managed and how will traffic flows and noise from trucks be monitored? Issues such as these are not mentioned in the traffic management plan.
- The traffic generation analysis has been calculated without proper knowledge of the streets surrounding the proposed development – for example, the estimated increase in vehicle activity every 7-8 minutes bears no relationship to actual trends, such as cars leaving in clusters;
- Have any traffic plans considered the traffic on Foster Street joining Daley Road, including the impact on the Allen Street roundabout? Current

- waiting times for traffic on Darley Road waiting to join the City West Link in the morning peak hour are 10-20 minutes.
- There is no apparent concern in the Traffic and Parking Assessment report of how the development will impact those who live along the boundaries of the development. For example, the RMS guide to traffic generation misleadingly concludes that movements will decrease with the massive proposed development from movements in its current industrial zoning. We have been residents of our current address at a time when Kolotex and Labelcraft were running at full capacity. During that time, traffic movements along George Street from 4.00pm weekdays and all day on Saturdays, Sundays and public holidays have been down to no more than one to two car movements per hour if that. This symbiotic relationship between industry and residents has worked remarkably well and has maintained a favourable amenity for immediate residents when it matters (after-hours weekdays and weekends) and while traffic movements during business hours remain high when residents are at work or at school. The applicant should be required to compare the current site, as is, against the fully developed site as the actual impact will be far more significant.
 - The Kolotex site is likely to be redeveloped in the near future, similarly the nearby old Price Tiles, Matt Blatt/Campbells Cash and Carry, and the western end of Lords Road sites, and a 90 place childcare centre has been approved on Flood Street that is almost finished and not yet operational - the accumulative effect of these and other major projects in the area should be taken into consideration in any modelling undertaken. The potential entry and exit points for the WestConnex and increased traffic and congestion proposed by Urban Growth should also be taken into account;
 - The proposal does not take in to account already the development around Summer Hill.

An additional 3000-5000 people and over 1000 more cars in the area will make it impossible to get anywhere and it is unclear as to how a community that is already struggling with too many people and cars can cope with this influx.

Comment: In response to the above:

- In the event of the consent authority approving the application, appropriate roadworks conditions could be readily imposed to ensure that surrounding streets are able to function to an appropriate standard in terms of road widths, vehicular manoeuvrability, the provision of acceptable sight lines for pedestrians and other road users etc;
- As previously noted, Council's Engineers have detailed various information requirements that need to be provided in order for the proposal to be supported on traffic grounds, including:
 - A cumulative assessment / intersection modelling of nearby intersections based on their own traffic analysis and in support of their application based on the subject application and anticipated proposed development yields, including across the adjacent Kolotex site; and
 - A Construction Traffic Management Plan.
- The extra volume of vehicles entering and exiting the site (and the adjacent Kolotex development) and utilising the surrounding road network will pose potential pedestrian safety issues and accidents on local streets and in the area

generally, including narrow George and Upward (which is unable to deal with two-way traffic meaning cars need to mount the kerb to park) Streets, Flood Street, Marion Street, Lords Road, Parramatta Road and around the Marketplace precinct, and for the large number of children who attend school / preschool, the Wangal Nura Park and the newly built childcare on Flood Street. There have already been several serious accidents involving pedestrians at the intersection of Flood Street and Lords Road, these streets being bus routes and being accessways for Marketplace which add to visibility issues that pedestrians need to contend with.

Comment: Conditions could be readily imposed to ensure appropriate sight lines and pedestrian safety adjacent to, and in the vicinity of the site, in the event that the consent authority approved the application.

- The location of the entry / exit of the underground car park is too close to Treagold Street South and George Street corner / intersection and the ramp is 20% wider than Council regulations.

Comment: Council's Engineers have determined that, subject to appropriate conditions to ensure satisfactory access and egress from the site, the driveway location and width are satisfactory. The width of the driveway and ramp is not excessive.

- Lack of public transport / transport strategy to deal with the traffic and parking congestion. Public transport (Buses, trains and train stations such as nearby Petersham and Lewisham Stations, and trams) is already stretched needs to be fully considered. Will Petersham Railway Station be able to cope with the increase in passengers, and if it is improved / expended, how long will the process take? The roads and transport will not be able to cope with additional residents, and the light rail option will only benefit those travelling to the city out of peak hour as trams are already full / standing room only when they reach our local shops.

Comment: Noted. As previously noted, Council's Engineers require further information before they can be satisfied that the traffic implications are acceptable.

- Adverse amenity / quality of life impacts impacts on surrounding residents, including Nos. 30, 42 and 52 Flood Street, No. 42 George Street and No. 75 Upward Street as a result of the development's excessive and intolerable height, bulk and scale. This bulk and scale will also dwarf adjoining properties, including No. 40 Upward Street.

Loss of outlook of blue sky from No. 52 Flood Street.

Comment: As previously noted, the scale of the proposal is governed by an LEP site specific amendment and a site specific DCP and the proposal is within height limits applicable to the site. Notwithstanding the above, the proposal is of an unsatisfactory scale across the site and particularly to the George Street building as previously discussed.

- Unacceptable / additional overshadowing of adjoining George Street, Upward Street and Flood Street properties, including Nos. 30, 42, 50 and 52 Flood Street, particularly during winter months.

Concern is also raised regarding additional overshadowing of current and future roof solar panels.

Comment: As previously noted, the submitted shadow diagrams have not demonstrated that overshadowing impacts on adjoining Flood Street properties will be acceptable. The proposal will not impact on existing adjoining George Street properties and will not overshadow adjoining Upward Street properties contrary to applicable solar access controls.

There are no site specific controls in the site specific DCP controls regulating retention of solar access to nearby roof solar panels.

- Unacceptable / total loss of privacy resulting from 123 units and their windows and verandahs overlooking of adjoining properties to the north and east along George, Upward and Flood Streets, including Nos. 30, 42 and 52 Flood Street, No. 42 George Street and on No. 57 Tebbutt Street. Inadequate privacy mitigation measures have been provided to protect adjacent residents such as No. 42 Flood Street from adverse view lines.

Comment: As noted in this report, the mere height of the two buildings means there would be lines of sight into neighbouring properties and the proposal has not adequately mitigated adverse sight lines into neighbours.

- Concern is raised regarding the additional noise that will be created by this development both during the construction phase and also the on-going operation, from cars/traffic, mechanical, and from general people / ambient noise including No. 42 Flood Street and No. 42 George Street. For example:
 - Should rock-breakers be required during demolition, they could not only compromise the foundations of neighbouring houses, but there is also a significant noise factor involved.
 - Truck noise during the building phase doesn't seem to have been addressed. As acknowledged by the Greenland in its adjacent development, there will be a significant increase in traffic on George Street post completion resulting in the recommendation to reduce the speed limit for noise reasons to 40kmh. This speed reduction presents its own issues such as squealing breaks, and if speed humps or other speed reducing measures be required, these will add even more to the traffic noise;
 - The compressor for each apartment's air conditioning unit is not shown and concern is raised regarding noise emissions generated by 123 air conditioning units. The applicant should be required to locate the air conditioning compressors to the roof of the apartments to minimise the impact on existing residents;
 - Seven apartments will have their entries directly adjacent to No. 42 George Street, with increased noise from foot traffic;
 - There does not appear to be any design features which protect adjacent residents from "people noise";
 - Noise from waste collection activities should be addressed; and

- Proposed balconies and swimming pools will result in additional noise impacts for surrounding residences.

Despite the current industrial/commercial activity along George Street during weekday business hours, the proposal will change the calm, peaceful and agreeable living environment currently enjoyed by neighbouring residents on evenings and weekends.

Comment: Standard conditions could be readily imposed to control / mitigate noise impacts during demolition and construction, such as the required submission of a Noise and Vibration Management Plan and the stipulation of enforceable noise limits, however, as previously noted, noise mitigation associated with air conditioning provision has not been adequately resolved and concerns are raised regarding the extent of roof top gardens / pools in terms of future acoustic impacts.

Any future proposal will require waste storage and collection to occur in the basement which would assist in restricting adverse noise impacts associated with waste collection.

The entry locations of units via side setbacks (such as adjacent to No. 42 George Street) were anticipated by the site specific controls.

- Concern is raised regarding disturbance in foundations / impacts on structural integrity, cracking in walls and damage to adjoining properties resulting from the proposed deep excavation and vibration arising during the demolition and construction stages, including for Nos. 42 and 46 George Street. An independent Surveyor must be appointed to allay any fears of structural damage, should this development go ahead.

Comment: Notwithstanding that the extent of excavation due to required remediation of the site remains unclear, conditions could be imposed, such as requiring the submission of a Noise and Vibration Management Plan, the provision of pre and post construction dilapidation reports of adjoining properties, the provision of details relating to adjoining property support / shoring, compliance with the recommendations of the submitted Geotechnical Report etc, in the aim of mitigating potential impacts on adjoining structures should the consent authority be of the mind to approve the application.

- Living through the demolition and construction stages is a concern and will probably require the resident of No. 40 Upward Street to vacate at considerable expense.

Comment: Conditions could be readily imposed, including relating to the control of noise, hours of demolition and construction etc in the aim of mitigating impacts of proposed demolition and construction on neighbours.

- Increased air pollution from the increased traffic and increased volume of vehicles entering and exiting the site in an area where Parramatta Road and the associated pollution is in close proximity.

There is also no explanation in the Development Application documentation as to the treatment of car exhaust from the basement car park. This needs to

addressed to ensure there is no negative impact on the surrounding residents. Concern is raised that car parking vents are located adjacent to No. 42 George Street.

Comment: It is unlikely that the development, appropriately conditioned, will result in undue adverse pollution issues for the locality and neighbours. This would include a condition requiring that the basement car parking design be designed in accordance with the Building Code of Australia and Australian Standard AS1668, which could be readily conditioned.

- The development should be sustainable, consistent with Council policy controls. For example, the groundwater should be captured and used throughout the development and solar panelling provided on the roof so that the development is self-sufficient.

No-one is ensuring the design and qualities of this development are in-line with Green Star recommendations that reduce pollution, save on-going costs and improves sustainability.

Comment: Noted. A BASIX Certificate accompanied the application demonstrating that the proposed development satisfies the requirements of SEPP BASIX 2004, and had the proposal been considered suitable for approval, the development would have been required to adhere to the requirements set by the State Government's Building Sustainability Index requirements, from general construction requirements to fittings and fixtures.

- Regarding waste management:
 - The proposal to have garbage removal from Upward Street by Council refuse trucks does not explain how the garbage bins will be moved from their storage room to Upward Street.
 - There will be an enormous amount of waste to be collected / taken away by Council. Three bins per unit equals 369 bins to collect rubbish, papers and bottles.

Comment: As previously noted, the application has not adequately addressed waste management to ensure waste collection can occur satisfactorily on the site.

- Concern is raised regarding the cumulative impact of so many high-rise developments in West Leichhardt and adjoining suburbs on already inadequate / strained local infrastructure like public transport, roads, schools, child care centres (including before and after school care), shopping centres (like Leichhardt Marketplace which is already congested on Saturday mornings), parks / public open space, medical centres and hospitals which is unsustainable. No such additional services / infrastructure are proposed to be provided, including by the State Government, and concern is raised regarding the lack of insight into the flow on long-term effects of infrastructure, with increased demand on already amenities and services leading to a significant decline in quality of life for current and new residents. The impact of this proposal on Leichhardt's amenities should be considered in light of a comprehensive study that assess the combined impact of all proposed major developments within 3 kilometres of Leichhardt.

The Labelcraft site is just one of numerous multi-dwelling residential developments proposed in West Leichhardt within half a kilometre of Parramatta Road and Petersham Park. An already commenced local 'baby boom' is putting pressure on school places and Leichhardt has one of the lowest ratios of open space per resident in the metropolitan area. Concern is also raised regarding the impacts of the development in Petersham Park / Oval and also the impact of the playing of cricket at the oval for future generations.

The proposal by Planning and Infrastructure is another 'sneaky' attempt to construct something that will clearly impact all residents in the vicinity, plus schools and the like that are within close proximity. Infrastructure provision needs to be fully considered. Good planning demands a smaller, more sustainable and appropriate development.

Comment: As previously noted, one of the zone objectives of the R3 Zone is to enable other land uses that provide facilities or services to meet the day to day needs of residents, and the submitted SIA does not assess infrastructure capacity, nor proposes strategies to mitigate the social impacts, specifically the impact of additional demand for social infrastructure, and why services to meet the day to day needs of residents have not been provided.

Notwithstanding the above, had the application been considered suitable for approval, a condition would have imposed requiring that various levies be paid in accordance with Council's Section 94 Contributions Plans as facilitated under Section 94 of the Environmental Planning and Assessment Act 1979 - the objective of Section 94 Contributions levies is to obtain a contribution from developers towards the provision, extension to or, or augmentation of, public amenities and services that will be required as a consequence of future development so that community is not burdened by the provision of public facilities required as a result of future development.

- Both the Labelcraft and Kolotex proposals should be viewed as one development.

Comment: Noted. The adjacent proposed Kolotex proposal (D/2014/713) which is currently under assessment has been reviewed as part of the assessment of this proposal. A report assessing the Kolotex proposal will be prepared at a later date.

- Concern is raised at the current trend of re-zoning and drying up of employment generating land in the Leichhardt LGA, evidenced in their recent Industrial Land Strategy. Despite it not being required under the current zoning of this site, some commercial applications should be included in the development.

Objection is also raised to the loss employment generated by the loss of Kolotex and Labelcraft uses and the community is losing valuable warehouse space that could be re-used.

Comment: Noted. The sites have already rezoned.

- No report has been provided on the social impact of the development on the community.

Comment: A Social Impact Assessment was lodged with the amended plans, however, is unsatisfactory as previously discussed.

- Little or no public consultation.

Comment: It is unclear as to whether this objection relates to lack of public consultation by the applicant or Council. Notwithstanding the above:

- There are no obligations for the applicant to consult with adjoining property owners and local residents prior lodgement of a Development Application under the Environmental Planning and Assessment Act; and
- The Council assessment process involved an extensive consultation process that included a six week notification period and a public information meeting where Council Officers were available to answer enquiries relating to the proposal.

- The proposal is inconsistent with the Leichhardt Affordable Housing Strategy (2011) which seeks a 10% affordable housing contribution.

Comment. The proposal provides affordable housing as per the VPA applicable to the site and provides an adequate mix of housing in accordance with Clause 6.13 of the LLEP2013, including 59 X 1 bedroom dwellings, which will assist in the provision of more affordable rental accommodation.

- Loss of property values as the area will be a less desirable place to live. The cost of the residents immediately impacted has not been included in any cost-benefit analysis that would identify a loss of value to their properties, reduced amenity caused by overshadowing, overlooking adjoining houses and gardens, increased traffic congestion and an eyesore that imposes itself directly behind and in front of houses.

It is requested that this, and other future proposals that are encouraged and endorsed by signals sent by Urban Growth and WestConnex be halted and discussed and agreed with local government and residents. There should be evidence and analysis supporting the claimed need and cost/benefit for large incompatible developments and a new tollway bearing down on the community. We understand this development has the support of the State Government evidenced by its steamrolling and mismanagement of the WestConnex and the recently released Urban Growth plans proposing major overdevelopment without consultation in this precinct. This is not planning; this is a mess of unsustainable and unplanned proposals.

Comment: Noted. Objections raising concern relating to loss of property value are always difficult to substantiate, however, objectors concerns relating to design and adverse environmental impacts, including loss of amenity, are noted and the general thrust of such concerns are concurred with.

It is regrettable and noted that residents are concerned relating to matters such as lack of appropriate cost-benefit analysis and public consultation by the State Government relating to nearby infrastructure projects.

- The proposal will compromise the security of No. 57 Tebbutt Street (due to the number of residents overlooking this site).

Comment: Noted. Notwithstanding concerns previously raised in this assessment that the proposal has not been successfully designed to mitigate overlooking impacts, some degree of overlooking of neighbours was anticipated by the site specific controls.

- The orientation and height of the development will result in significant adverse privacy, amenity and streetscape impacts.

Comment: It is agreed that the orientation of the dwellings results in poor amenity outcomes on the site and unnecessary adverse amenity impacts on neighbours. Also, the streetscape outcomes of the proposal are unsatisfactory. See SEPP 65 assessment previously in this report.

- The proposal fails against the design principles of SEPP 65, including in terms of scale / footprints, design, deep soil planting, lack of consideration of its context, solar access, privacy and amenity.

Comment: Agreed – See assessment previously in this report.

- The proposal does not achieve the zone objectives of the R3 – Medium Density Residential zone.

Comment: Agreed – See assessment previously in this report.

- The proposal is considered to be a high-rise, high-density development and not a medium density development as per the zone objectives.

Comment: The proposal does not exceed the height / number of storeys requirements of the site specific controls.

- The proposal does not achieve the objectives of the site specific DCP controls applicable to the site, with key non-compliances being solar access, building design, privacy impacts, open space and landscape, and consequently, the purpose, aim and objectives of the DCP.

Comment: Agreed – See assessment previously in this report. For details of non-compliances

- Inadequate documentation was lodged with the application and concern is raised that proper consideration has not been given to cumulative impact of the proposed increase in density and subsequent impacts on traffic / parking implications, demand for local open space, impact on capacity of local schools, public transport impacts and demand for community services and social and community concerns.

Comment: Agreed. See previous assessment for details of plan and information deficiencies.

- Inconsistent plans.

Comment: Agreed. See assessment previously in this report.

- What will be the hours of operation for the removal of hazardous materials?

Comment: General hours of operation that would be imposed on any consent are:

- 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- at no time on Sundays or public holidays.

- The commercial tenancies will require delivery trucks, rubbish removal etc and these have not been adequately accounted for in the design. Further, there is insufficient parking for the commercial tenancies and their visitors and must also be accounted for in the assessment on local traffic.

Objection is raised to the inclusion of commercial tenancies given the number of empty shops / restaurants and workshops on the municipality.

Comment: No commercial tenancies are proposed as part of this particular application.

- It is unacceptable that the developer does not have to honour the defined and accepted development codes that Council and residents have worked together on developing for the community, and it is disappointing that a representative body – of our interests – routinely sets out to rule rather than represent us so that matters like “overbuilding” requires significant and repeated input from residents to keep under control. Residential amenity is not a resource up for grabs by the most wealthy and persistent. So long as applications such as this are encouraged, residents will be worn down, and a fresh new stream of rates secured. Council’s job is to defend ratepayers, not to “cook up sources of income for servants of this purpose.”

Comment: Site specific controls are capable of being varied, and Clause 1.5 of the George and Upward Streets DCP allows the *consent authority is to be flexible in applying the controls and allow reasonable alternative solutions that achieve the objectives of the controls*. Notwithstanding the above, the proposal involves various breaches of / or lack of demonstrated compliance with the intent of the applicable site specific controls which are not supported, details of which have been outlined previously in this report.

- The proposed confiscation of our homes and futures, and sale as wholesaled to highest bidders to fund Westconnex is vehemently proposed.

Comment: As previously noted, the impacts of the proposal on adjoining properties and the locality generally are unsatisfactory and the proposal is unsupportable.

- Concern is raised regarding the engagement of private sector consultants to declare this area and others flood-affected, by inventing an untestable concept “the” (unknown) 100-year flood”, and then, all who seek advice on this point, or to be rid of the contrived affectation, or to build, or to sell, must consult either the same consultant or another of the same kind. We have experienced extreme weather events over the past 30 years in this area and have not

experienced major problems, yet Council has never cared to ask of resident experiences in determining flood affectation, but rather, prefer to let the consultants invent. And yet, at the front of No. 45 Flood Street, the gutter of Myrtle Street has been blocked for years and despite complaints to Council, has done nothing. This is a phoney fight against global warming and creeping corruption – an exchange of favours with an enterprise which stands to benefit. Council's attitude of creating affectations at will is objectionable.

Comment: All New South Wales Councils are required to address the risks of flooding in accordance with the State Government Flood Prone Land Policy, and Council's stormwater and flooding controls and the identification of flood control lots throughout the municipality have been prepared and determined in accordance with this policy and Council-wide studies prepared by specialist consultants for Council commissioned to analyse the existing stormwater drainage system across the Leichhardt LGA. These studies are publically exhibited for comment, including to affected properties, prior to their adoption and incorporation as Council policy in a Development Control Plan.

A 1 in 100 year flood is the flood that is predicted to occur or be exceeded on average, once every 100 years. It has a probability of 1% of occurring in any given year. Some parts of Australia have received a couple of 1 in 100 year floods in one decade, and therefore, should not be dismissed as an "untestable concept".

Any blocking of Council gutters should be directed to Council's Infrastructure and Service Delivery Section for further investigation and necessary action.

- The subject sites are listed in Council's controls to be impacted by flooding. Should the subject development be approved, it is requested that suitable conditions be included to ensure that the Best and Less property is not negatively impacted by the proposed development.

Comment: The subject property is not flood affected, and the proposal could be readily conditioned to address site drainage and stormwater control requirements.

- The public footpath should not be blocked / inaccessible to pedestrians which is currently occurring with respect to demolition associated with the approved Complying Certificate at No. 22 George Street

Comment: In the event of this or any future application being approved, appropriate conditions could be imposed on any consent to ensure that public footpaths are not blocked or impeded.

(e) The public interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The approval of the application, which is inconsistent with numerous planning and policy controls will be contrary to the public interest.

5. SECTION 94 CONTRIBUTIONS

Section 94 contributions are payable for the proposal.

The VPA excludes the six affordable units from any Section 94 levy.

Of the remaining 117 units any dwelling in excess of 53sqm would exceed the \$20,000 cap imposed by the State Government. Council has identified three units of less than 53sqm in area (not including the affordable units). These three units would generate a Section 94 levy of \$46,657.61.

The remaining 114 units are capped at \$20,000 per dwelling, being \$2,280,000

Additionally, a credit is to be applied for the existing commercial/industrial use. This credit is \$42,774.41. Therefore the payable Section 94 levy, in the event of any approval is:

$\$46,657.61 \text{ plus } \$2,280,000 \text{ minus } \$42,774.41 = \$2,283,883.20.$

6. INTERNAL REFERRALS

The Development Application was referred to the following Council Officers:

Building

Council's Building Surveyor provided the following advice:

- *Building Classification: 7a, 2;*
- *C2.2: General floor area & volume limitations:* Appears to comply for the proposed classification/s;
- *General Building Access requirements:* Class 2: Table D3.1 requires an accessway from a common use pedestrian entrance required to be accessible to at least 1 floor containing sole-occupancy units and to the entrance doorway of each sole-occupancy unit located on that level, and that where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift. The Access Report provided stipulates that general compliance with the BCA and Access to Premises Standard is readily achievable.

Further to the above, detailed floor plans have been provided (as requested) which indicate the adaptable/accessible unit floor plans;

- *The Disability (Access to Premises – Buildings) Standards 2010 [commonly known as Access to Premises Code] is applicable to this development:* The applicant should be made aware of their legislative requirements and should investigate the implications relating to their proposed development.
- Compliance with the Building Code of Australia – Volume One is required as applicable. Dwellings have been redesigned / reconfigured to delete study rooms that did not have natural light via windows to the outside. Confirmation whether the rooms are proposed to have borrowed light or reconfigure layouts.
- The applicant has a number of ways to comply with the performance provisions of the BCA by compliance with either:
 - (a) the *deem-to-satisfy* provisions; or
 - (b) an *alternative solution*; or

(c) a combination of (a) & (b) above.

In summary, the proposal can be readily conditioned to comply with the requirements of Council's Building Surveyor.

Engineers

Concerns raised by Council's Engineers relating to access and manoeuvrability within the basement, including for waste collection vehicles and the adequacy of the Transport Impact Assessment report and the lack of Construction Traffic Management Plan have been outlined previously in this report.

Heritage Advisor

Council's Heritage Advisor previously raised concern regarding the provision of high fencing to the Upward Street frontage adjacent to the passive recreation area. The amended plans and additional information have clarified that such fencing is not proposed, and hence, previous concerns have been resolved. However, the Heritage Advisor has recommended that any required fencing to the northern boundary adjacent to No. 59 Upward Street be low forward of the building line to this dwelling, and in the event of the application being approved - this is conditionable.

Landscape Officer

See concerns raised above under Principle 6: *Landscaping* to SEPP 65. Council's Landscape Assessment Officer is particularly concerned regarding the lack of adequate deep soil planting zones distributed across the site.

Parks and Streetscapes

No objections, subject to conditions.

Environmental Officer

Council's Environmental Health Section does not support the proposal as lodged. See assessments above under relating to contamination and the adequacy of the RAP and noise and the adequacy of the Acoustic Report under the following assessments:

- SEPP 55; and
- SEPP 65 – Principle 7 – *Amenity*.

Property

Council's Property Section has recommended that the following conditions be imposed on any approval:

- Prior to issue of an Occupation Certificate, the publicly accessible pedestrian link is to be constructed by the applicant/site owner in accordance with approved plans and to a standard acceptable to Council. There must not be any design cues indicating that it is private; and
- Prior to issue of an Occupation Certificate, a right of way is to be registered over the site of the publicly accessible link in favour of Leichhardt Council. The terms of the right of way must first be approved by Council's Manager Property and Commercial Services and will include clauses dealing with maintenance, liability and insurance by the site owner and Council's rights to install signage indicating that it is a public right of way.

Community Development

See assessment above under Part B – *Connection* to the LDCP2013 - Council's Community Development Section does not support the proposal in its current form. In the event that the application is approved contrary to the recommendation of this report, Council's Community Development Section recommends that the following conditions be included:

- The public through-site link shall be redesigned to apply Safer By Design principles. Specially, revised plans are to provide clear sight lines from the public street at each side of the link, the landscape treatment will clearly delineate publicly accessible and private spaces and provide for surveillance, and the link is to be free of potential entrapment points;
- Approval by a specialist affordable housing provider, nominated by Council, of the design and location of the six units to be dedicated for Affordable Housing is required prior to issue of construction certificate;
- A condition would need to be included on the transfer of title of the affordable housing units to a registered affordable housing provider prior to the issue of occupation certificate for any stage of the development;
- The ground level communal open space shall be accessed through a secure entrance from the through site link; and
- The communal pool shall be accessible and the pool and access to the pool shall comply with AS1428.

7. EXTERNAL REFERRALS

The Development Application was referred to the Sydney Water and Ausgrid for comment. Both these referral bodies raised no objections to the proposal proceeding, subject to certain requirements being met – conditions advised for inclusion in the event of an approval.

8. CONCLUSION

The Development has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

Concerns are particularly raised regarding:

- Contamination and remediation – the site is highly contaminated, and the proposed remediation strategy for the site is considered to remain inadequate;
- Form and scale – the proposal of an excessive and inappropriate scale across the site. In this regard, particular concern is raised regarding the George Street building which will have a sheer scale and form when viewed from the public domain, particularly from the south, that will be excessive, intrusive and unacceptable (concerns include: the extent of structures / elements such as pergolas / shaded structures, projecting fin walls and / or spiral staircases extending into the setback areas; setbacks of the George Street building within the development and to the southern and western boundaries are not consistent with the NSW RFDC, and the extent of individual / private roof terraces / pools and associated accesses are not conducive to compact roof forms as required by the site specific controls)
- Design - various aspects of the design and detail of the development across the site are unsatisfactory with resultant poor design and public domain scale

outcomes. Particular concerns relating to design include building facades to the George Street building that do not display adequate distinct vertical modulation / verticality and articulation, building facades with excessive glazed elements, excessive and inappropriate use of glass balustrades (both buildings) and the use of inappropriate spiral staircases to access rooftops which also involves unnecessary and intrusive privacy walls which will be clearly visible from the public domain (both buildings);

- Landscaping - inadequate deep soil zones and landscaping across the site and unsatisfactory public through-site link design;
- Amenity – the proposal will result in unsatisfactory amenity outcomes on the site and adverse amenity outcomes for adjoining properties, particularly in terms of solar access and privacy;
- Traffic, parking and waste management – traffic and parking related matters remain unresolved and proposed waste management is unsatisfactory; and
- Inadequate response to the site's zoning objectives - one of the zone objectives of the R3 Zone is to enable other land uses that provide facilities or services to meet the day to day needs of residents, and the submitted SIA does not assess infrastructure capacity, nor proposes strategies to mitigate the social impacts, specifically the impact of additional demand for social infrastructure, and the design does not achieve a high level of residential amenity in accordance with a second objective.

Further to the above, the following plan and information deficiencies remain with the application and concern is raised that the proposal is unsatisfactory with respect to Clause 54 of the Environmental Planning and Assessment Regulation 2000:

- Inadequate levels information has been provided on floor plans, landscape plan and architectural plans, including lack of adequate levels information across the site and lack of all parapet and roof ridge levels on all elevations and sections;
- A full western elevation of the George Street fronting building has not provided;
- Walls / fencing to all boundaries, including green wall to George Street / Treadgold Street South corner are not shown on the architectural drawings;
- The floor plans do not indicate where the northern and southern elevations are depicted within the site;
- All elevational drawings do not show / adequately show the relationship of the development with adjoining properties or its street context; and
- No strata subdivision plan provided (any application seeking approval for strata subdivision is required to be accompanied by relevant plans).

Accordingly the application is recommended for refusal for the reasons listed below.

9. RECOMMENDATION

That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, refuse the Development Application No: D/2014/646 for site preparation works (including diversion of services, demolition of existing structures and excavation), construction of 2 buildings of between 4 and 8 storeys comprising 123 residential units above a 2 level basement car park with 122 parking spaces, and associated works including providing communal open space incorporating a pool, landscaping works, removal of trees, provision of roof gardens with plunge pools, and strata subdivision at 30-40 George Street, LEICHHARDT NSW 2040 for the following reasons.

1. The application has not satisfied the requirements of Clause 7 of *State Environmental Planning Policy 55 - Remediation of Land*, insofar as a Remediation Action Plan consistent with the relevant guidelines has not been submitted for assessment, and it remains uncertain, therefore, how or whether land and groundwater contamination would be addressed and whether the site could consequently be made suitable for the intended use.
2. The proposed development is inconsistent with the following environmental planning instruments, pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development:
 - i) Principle 1: *Context*;
 - ii) Principle 2: *Scale*;
 - iii) Principle 3: *Built Form*;
 - iv) Principle 5: *Resource, Energy & Water Efficiency*;
 - v) Principle 6 – *Landscape*;
 - vi) Principle 7: *Amenity*;
 - vii) Principle 8 – *Safety and Security*;
 - viii) Principle 9 – *Social Dimension*; and
 - ix) Principle 10 – *Aesthetics*.
 - b) Leichhardt Local Environmental Plan 2013:
 - i) Clause 1.2 – *Aims of the Plan*;
 - ii) Clause 2.3 – *Zone Objectives and Land Use Table*; and
 - iii) Clause 5.10 – *Heritage Conservation*;
 - iv) Clause 6.4 – *Stormwater Management*.
3. The proposed development is inconsistent with the following provisions of Draft State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development Amendment No. 3, pursuant to Section 79C (1)(a)(ii) of the Environmental Planning and Assessment Act 1979:
 - a) Principle 1 – *Context & Neighbourhood Character*;
 - b) Principle 2 – *Built Form and Scale*;
 - c) Principle 4 – *Sustainability*;
 - d) Principle 5 – *Landscape*;
 - e) Principle 6 – *Amenity*;
 - f) Principle 7 – *Safety*;
 - g) Principle 8 – *Housing Diversity and Social Interaction*; and
 - h) Principle 9 – *Architectural Expression*.
4. The proposed development is inconsistent with the following Development Control Plans, pursuant to Section 79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) George and Upward Streets, Leichhardt Development Control Plan 2014
 - i) Section 1.4 – *Purpose, Aims and Objectives*;
 - ii) Section 2.1 – *Site Layout and Building Design*;
 - iii) Section 2.2 – *Building Design*;
 - iv) Section 2.3 – *Residential Amenity*;
 - v) Section 2.4 – *Open Space and Landscaping*;

- vi) Section 2.5– *Access, Movement and Parking*;
 - vii) Section 2.6 - *Safety and Security*;
 - viii) Section 2.7 – *Flood and Stormwater*; and
 - ix) Section 2.8 –*Waste Management*.
- b) Leichhardt Development Control Plan 2013:
- i) Clause B1.1– *Connections and Planning for Active Living*;
 - ii) Clause B2.1 - *Planning for Active Living*;
 - iii) Clause B3.1 – *Social Impact Assessment*;
 - iv) Clause C1.1 - *Site and Context Analysis*;
 - v) Clause C1.5 - *Corner Sites*;
 - vi) Clause C1.7 - *Site Facilities*;
 - vii) Clause C1.8 - *Contamination*;
 - viii) Clause C1.9 - *Safety by Design*;
 - ix) Clause C1.11 - *Parking*;
 - x) Clause C1.12 - *Landscaping*;
 - xi) Clause C1.13 - *Open Space Design Within the Public Domain*;
 - xii) Clause C1.21 - *Green Roofs and Green Living Walls*;
 - xiii) Clause D2.1 – *General Requirements (Waste)*;
 - xiv) Clause D2.3 – *Residential Development (Waste)*; and
 - xv) Clause E1.2 – *Water Management*.
5. The proposal is inconsistent with Clause 54 of the Environmental Planning and Assessment Regulation 2000, pursuant to Section 79C (1)(a)(iv) of the Environmental Planning and Assessment Act 1979.
6. The proposal will result in detrimental or unresolved environmental and social impacts in the locality, pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979.
7. The adverse impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979.
8. The approval of this application is considered contrary to the public interest, pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979.

