



JOINT REGIONAL PLANNING PANEL REPORT

Application No.	D/2014/713
Address	22 George Street, LEICHHARDT NSW 2040
Proposal	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.
Date of Receipt	23 December 2014
Applicant	Greenland (Sydney) George Street Development Pty Ltd
Owner	Greenland Sydney George Street Development Pty Ltd
Number of Submissions	105
Building Classification	2, 6 and 7a
Integrated Development	Yes
Main Issues	Contamination, SEPP 65 non-compliance
Recommendation	Refusal

1. PROPOSAL

This application seeks consent for 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 at 22 George Street, Leichhardt.

In particular consent has been sought for the following works:

- Remediation of the site including the removal of hazardous materials within site buildings;
- Demolition of existing structures (Refer to site history);
- Diversion of existing stormwater and sewer lines;
- Excavation for proposed single level basement car park, with small mezzanine parking level, which will incorporate 250 parking spaces, 19 visitor spaces, 300 bicycle spaces and 26 disabled spaces;
- Construction of four residential flat buildings and one mixed use building incorporating 287 dwellings and 5 retail tenancies, as follows:
 - o Building A – 66 dwelling units divided as follows:
 - 22 x one bedroom
 - 44 x two bedroom
 - o Building B – 84 dwelling units and 5 retail tenancies divided as follows:
 - 5 x studio
 - 28 x one bedroom
 - 47 x two bedroom
 - 4 x three bedroom
 - 5 x retail tenancies ranging in size from 39sqm to 225sqm, with a total of 600sqm of floor area
 - o Building C – 36 dwelling units divided as follows:
 - 10 x studio
 - 20 x one bedroom
 - 6 x two bedroom
 - o Building D – 82 dwelling units divided as follows:
 - 42 x one bedroom
 - 36 x two bedroom
 - 4 x three bedroom
 - o Building E – 19 dwelling units divided as follows:
 - 3 x studio
 - 16 x one bedroom

The total dwelling mix is shown in the below table:

Unit Size	Studio (35-40sqm)	One Bedroom (55sqm)	Two Bedroom (70-78sqm)	Three Bedroom (105-115sqm)
Number of units	18	128	133	8
Percentage of units	6%	45%	46%	3%

Additional Information - Revision A, E and F

In response to Councils additional information letter and discussion with Council staff, the applicant submitted additional information which incorporated the following:

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- Amended design report and architectural drawings;
- Traffic and parking response;
- Advice from community housing provider;
- Solar access floor plans;
- Amended stormwater and rainwater reuse response, BASIX report and certificate;
- Amended waste response.

The information was provided to assist Council in the assessment of the proposal, and as such was not required to be re-notified pursuant to A3.13 of Leichhardt Development Control Plan 2013 (LDCP 2013).

Additional Information - Revision G

The applicant was requested to provide a revised issue of all architectural plans and associated documentation so that all previous amendments could be incorporated into one single set of plans. No amendments or changes were proposed within Revision G to constitute re-notification. These plans form the basis of this assessment report.

2. SITE DESCRIPTION

The site has an area of 1.013 ha. It is approximately rectangular in shape with street frontages of approximately 172m along Upward Street, 100m along George Street, and 24m along McAleer Street. The site contains a series of 'purpose built' brick and concrete factory, warehouse, and office facilities formerly used for the manufacture of clothing (Kolotex). The existing structures (prior to demolition) can generally be described as including:

- A large two-storey brick and concrete factory with concrete roof to the south-east of the site, incorporating significant floor-to-floor heights and pedestrian/vehicle access via George Street
- A three-storey rendered brick and steel office and factory facility to the north-east of the site, with off-street surface car-parking accessed via George Street
- A single-storey brick factory/warehouse facility on the corner of Upward Street and McAleer Street, at the south-west of the site.
- A two-storey brick factory/ warehouse facility fronting Upward Street; and
- Two single-storey brick factories/warehouses fronting Upward Street to the north-west of the site.

The site is partly zoned B4 – Mixed Use and R3 – Medium Density Residential under Leichhardt Local Environmental Plan 2013.

The site is a high risk flood affected site. Site levels fall considerably from George Street to Upward Street in an east-west line.

3. SITE HISTORY

The site has an extensive history of industrial uses from the early Twentieth Century until the present.

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 site (and Labelcraft site) 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: Planning Assessment Committee (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.

May 2014: Greenland Development Pty Ltd lodge a development application (D/2014/240) for demolition of existing structures, removal of trees, diversion of services and removal of all hazardous material from the site.

June 2014: Greenland Development Pty Ltd lodge a development application (D/2014/312) for 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 in height.

October 2014: D/2014/312 is refused by the JRPP Sydney East on 23 October 2014, due to the Panel not being satisfied that the site is suitable for residential development due to the high-level of contamination, does not conform well against

SEPP 65 and RFDC in relation to solar access, and proposed buildings do not provide a reasonable transition of scale.

November 2014: D/2014/240 is withdrawn by the applicant.

December 2014: The subject development application (D/2014/713) is lodged by Greenland Development Pty Ltd.

January 2015: Complying Development Certificate (CDCP/2015/10) for demolition of the existing industrial building is surrendered by Greenland Development Pty Ltd.

March 2015: Complying Development Certificate (CDCP/2015/32) issued for demolition of all existing industrial buildings on site in relation to D/2014/713 by private certifier.

Voluntary Planning Agreement (VPA)

A “Voluntary Planning Agreement” (VPA) 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.

In August 2008 Council considered an Item in relation to “Voluntary Planning Agreements” and resolved “That Developers applying to Council for a change to or the making or revocation of use of an environmental planning instrument to allow a change of use (such as from Industrial to Residential Zoning) be advised that development contributions and/or material public benefits will be negotiated subject to a valuation of the likely increase in market value of the land as a result of the proposed change.”

The Voluntary Planning Agreement for the development site requires the provision of seven affordable dwelling units, and standard Section 94 levies 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.*

Affordable Housing Lots means seven strata lots in the Building configured as one bedroom units to be used for Affordable Housing purposes of such sizes as:

- (a) agreed with the Director-General, acting reasonably; or*
- (b) acceptable to the Minister or his nominee.*

Seven one-bedroom units have been nominated as part of the proposal to meet the terms of the VPA. They are all proposed to be located in ‘Building E’, and it is not known whether they are of a size agreeable to the Director-General, Minister, or their nominee, however that would be required in order to achieve the terms of the VPA.

Council does not consider it appropriate that all the units be clustered in one part of the site; however advice has been received from St George Community Housing which recommended the units be located in a single area for management purposes given the relatively small number of units. The advice suggested that there was no relevant policy reason to locate the seven units equitably throughout the five buildings, as a concentration of units would not present any concerns for the tenants or wider community.

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
- State Environmental Planning Policy No.64 – Advertising and Signage
- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

State Environmental Planning Policy No.55 – Remediation of Land

The previous development application (D/2014/312) was refused by the JRPP due to insufficient documentation being submitted to demonstrate that the site could be made suitable for the proposed residential use. The Panel stated in their determination that in order to be satisfied, the Panel would require a Section B Site Audit Statement to be submitted that certifies that the site can be made suitable if the Remediation Action Plan is implemented.

Clause 7 of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) requires that the consent authority be satisfied that the site is, or can be made to be, suitable for the proposed use.

As with the previous application Council commissioned the services of an independent expert to review the methodology, conclusions and recommendations of the applicant's remediation documents.

The applicant has provided the following documents regarding the contamination issue:

- Remediation Action Plan 14101RP01_RAP2 Revision 8 prepared by Environmental Strategies and dated November 2014.
- Groundwater Assessment Report 14101RP02 8 prepared by Environmental Strategies and dated November 2014.
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- Onsite Tier 2 Human Health Risk Assessment prepared by Environmental Strategies and dated 15 December 2014.
- Section B Site Audit Statement prepared by Jason Clay, dated 19 December 2014.

On 27 January 2015, Council received the following advice from the independent reviewer, in response to these documents.

In my lay opinion, reliance on a Section B Site Audit Statement, which certifies that the site can be made suitable if the site is remediated in accordance with an RAP, can be made only if the RAP has been prepared in accordance with policy of and guidelines endorsed by NSW EPA. In this respect, the RAP should inter alia"... document in detail all procedures and plans to be implemented to reduce risks to acceptable levels for the proposed site use", and set out the "Remediation schedule", as required by the NSW EPA Guidelines for Consultant Reporting on Contaminated Sites.

It is my understanding that the policy of NSW EPA relating to RAPs is that a RAP should be completed only after an appropriate level of investigation has been completed to allow the RAP to be prepared in compliance with the requirements of the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. In this respect, a RAP is required inter alia, to have identified the full extent of the remediation works to the extent practicable and to have set out the remediation schedule. In my opinion, based on the policy of and guidelines endorsed by NSW EPA, it is not appropriate that a RAP: requires further substantial investigation (to define the nature and extent of the remediation works); or requires completion of a human health and environmental risk assessment (to define the site- specific remediation criteria for each chemical of concern); or does not set out the remediation schedule (which defines the time for the various stages of the remediation works and the expected date of commencement and completion of the various milestones).

In particular Council's expert identified concerns with the level of investigation/proposed measures to deal with ground water contamination, asbestos-containing materials and the conditional nature of the Site Audit Statement (B).

In response to these concerns the applicant submitted further documentation, as following:

- Letter prepared by Environmental Strategies dated 28 October 2014 Subject: In situ waste classification of proposed excavated materials.
- Letter prepared by Environmental Strategies dated 16 December 2014 Subject: Delineation of Groundwater Contamination - Addendum.
- Section B Site Audit Statement and accompanying Site Audit Report, both prepared by Jason Clay and both dated 19 December 2014.

The Site Audit Report prepared by Jason Clay of AECOM Australia P/L dated 19 December 2014 made the following conclusions, which were presented for Council's consideration:

"9.0 Auditor's Opinion and Conclusion

The Auditor has completed a review of the investigation and remedial action plans for 22 George Street, Leichhardt, NSW. The site comprises Lot 100, DP 1196620 as indicated on the Deposited Plan Administration Sheet provided in Appendix A and is proposed to be redeveloped for 84 Mixed Use.

9.1 Consultant's conclusions

The RAP (ES, 2014i) was developed to enable Greenland (Sydney), the site developer, to remediate the site to ensure protection of human health and the environment and then proceed forward with the development of the site. ES (2014i) concluded that:

"The remedial measures outlined in this RAP are intended to render the site suitable for proposed mixed use development of residential use with minimal access to soils and commercial retail use. Subject to the successful implementation of the proposed measures, any ongoing management or monitoring requirements in relation to maintaining the suitability of the site soil for residential use is not considered applicable. .

9.2 Auditor's conclusion

In evaluating the suitability of the RAP (ES 2014i) to describe the remediation required render the Site acceptable for Mixed Use, the Auditor has followed Appendix I of the NSW DEE (2006). The Auditor has considered the information presented in this SAR and the Auditor's assessment is provided

The Auditor has reviewed ES (2014i) to his satisfaction and considers that this document has generally adequately followed NSW EPA (1997). The Auditor considers that while the strategy is appropriate in principal, that the document is conceptual in nature. Further assessment, groundwater modelling, pilot testing and detailed design of the remediation approach will be required before the Auditor can have confidence that, if properly designed and executed, will deliver a site suitable for Mixed Use with an ongoing EMP. The RAP contains a suitable Site/Remediation Management Plan to ensure activities are carried out appropriately during remedial works.

The Auditor concludes that, on the basis of the data presented to him, the site has yet been fully characterised with respect to the source of identified groundwater impacts (laterally and vertically). Notwithstanding this, sufficient soil and groundwater investigation has been carried out to date to inform an appropriate conceptual remediation strategy. The Auditor considers that additional assessment, groundwater modelling, pilot testing and detailed design of the remediation approach will be required before the Auditor can have confidence that if properly designed and executed, will deliver a site suitable for Mixed Use and free from significant environmental risk.

In addition, a groundwater validation plan must be provided to demonstrate the groundwater has been successfully remediated. Finally, a long term Environmental Management Plan (EMP) will be required to manage residual impacts in soil and groundwater (including operation and maintenance of a hydraulic barrier) until such

time that the conditions required to render the site suitable for its intended land use is no longer applicable.

Once this additional information is provided to the satisfaction of the Auditor, the site would be deemed suitable for Mixed Use should the updated RAP be satisfactorily executed.

ES has generally followed the guidelines made or approved by NSW EPA, with some noted exceptions which do not materially affect the validity of the remedial approach or conclusions."

Council's expert reviewed this additional information and has advised as follows:

Environmental Strategies has compelled some additional investigation works and a risk assessment and the site auditor has issued a Section B site audit statement that requires additional investigation works to be carried out. This site audit statement is not adequate for Council's requirements.

In my opinion, at this stage what Council requires to satisfy the requirement of the Department of Planning guidelines and SEPP 55 in determining a DA is a Section B site audit statement certifying that the site can be remediated so the site is suitable for the proposed use/s if the RAP the auditor has reviewed is implemented (note that the RAP must have been completed and reviewed and found to be satisfactory) .

As far as I understand, the site auditor has reviewed an RAP that outlined a "remediation philosophy". Such a document would not meet the requirements of the EPA for an RAP.

Note that the site audit statement dated 19 December 2014 does not satisfy Council's requirements and is of no real use to Council in its decision-making process in determining a DA.

To determine a DA, Council requires a Section B site audit statement certifying the site can be made suitable if the RAP is implemented. When this site audit statement is received, Council will have satisfied its obligations under the planning guidelines at that stage.

Finally, at the completion of the remedial works, Council requires a Section A site audit statement from the site auditor certifying that the site is suitable for the proposed use/s.

By letter dated 6 May 2015 the Site Auditor responded to these concerns, as follows:

At the conclusion of the on-site remediation and validation activities, I anticipate that a Section B SAS will be issued to certify that the site is suitable for the proposed development subject to conditions including, amongst other things, implementation of an approved and legally enforced EMP. The EMP will need to be implemented as long as the up-gradient site remains significantly contaminated. Implementation of the EMP, will likely involve the extraction of groundwater from the boundary between the two sites, subsequent groundwater treatment and discharge of treated groundwater to trade effluent. This approach is commonly applied on sites contaminated with chlorinated solvents and is currently happening on at least two other sites regulated by the EPA in Sydney. It does; however, require detailed on-going management and an appropriate financial mechanism in place to ensure its longevity.

As noted above, implementation of the EMP will be required as long as the up-gradient site is significantly contaminated. However, implementation of the EMP can likely be ended when the up-gradient site is satisfactorily remediated and an unconditional Section A Site Audit Statement is issued for the up-gradient site.

Ending the implementation of the EMP would then be permitted only upon the issue of a Section A Site Audit Statement for the subject site (the 22 George Street

development site) which states that the site is fit for its then, current use without the need for an EMP.

To ensure compliance with the SAS B, I will require the implementation of the EMP to be legally enforceable through conditions of development consent pursuant to the Environmental Planning and Assessment Act 1979.

Accordingly, a mechanism to achieve this would be for the consent authority to firstly utilise the current Section B Site Audit Statement (SAS) prepared by myself, dated 19 December 2014, to inform itself on whether it can be satisfied that the subject site will be suitable, after remediation, for the purpose for which development of the site is proposed to be carried out.

Should the consent authority be satisfied that this is the case, a condition would need to be included in any development consent that prior to the issue of a certificate of occupation for development on the subject site, a new Section B Site Audit Statement must be issued and an approved EMP implemented. A financial mechanism acceptable to the consent authority or EPA must also be put in place to cover the long term payment for the ongoing operation, maintenance and management of the remediation system installed in accordance with the EMP.

Provision should also be made in the conditions of any development consent granted for the subject site that the EMP remains in place and maintenance, management and operation of any EMP works continues until such time as an unconditional Section A Site Audit Statement is provided by the NSW EPA accredited contaminated site auditor for the site.

Council's Environmental Consultant remains dissatisfied with the response to previous concerns raised, and has reiterated his opinion 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.

The documents upon which the consent authority is asked to rely are at this stage merely conceptual in nature and lack the certainty required of them by Clause 7 of SEPP 55.

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 (and the draft SEPP 65 amendments currently on exhibition)

SEPP 65 applies to the following development types.

- The erection of a new residential flat building (RFB); and
- The substantial redevelopment or the substantial refurbishment of an existing RFB; and
- The conversion of an existing building to a RFB.

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. (Note – part of the exhibited amendment to the State Environmental Planning Policy is to add shop-top housing to the category of residential development covered by the SEPP, as this category has inadvertently resulted in residential apartment buildings located over business/commercial premises not being technically covered by the existing SEPP, which only relates to RFB's.)

The development is more than three (3) storeys and contains more than four (4) dwellings and consists of, variously, residential flat buildings and shop-top housing, 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	Comment
Principle 1: Context	The site specific Development Control Plan and Leichhardt LEP amendment combine to establish context parameters for the site. These include height, form, setbacks and layout. The proposal is consistent with these design parameters. See assessment later in this report and Appendix 1 for further details.	Satisfactory having regard to constraints and planning controls imposed via site specific planning controls.
Principle 2: Scale	As identified above, the LEP amendment and DCP controls for the site identify appropriate scale for building components on the site, ranging from three storeys along the perimeters, to eight stories internally (albeit the statutory height limit is 32m above existing ground level and actually allows up to nine storeys in height)	Satisfactory having regard to constraints and planning controls imposed via site specific planning controls.

	See assessment under Principle 1 above and the detailed assessments later in this report.	
Principle 3: Built form	The DCP controls for the site envisage an apartment style group of buildings fronting both major street frontages. The submitted design is consistent with these controls.	Satisfactory
Principle 4: Density	The development complies with the FSR controls within the amended LEP. However building depths and separations do not comply with the SEPP.	Satisfactory subject to conditions to ensure additional planting and measures to protect internal amenity between units
Principle 5: Resource, energy & water efficiency	The development is required to be accompanied by a BASIX certificate.	A BASIX Certificate has been submitted.
Principle 6: Landscape	Detailed and significant landscape plans have been provided which include the creation of a landscaped edge around the site and a large internal communal landscaped space. These spaces will allow also for privacy planting between units, to further improve the amenity of those dwellings. The proposal will be conditioned to ensure that adequate soil depths are proposed across the site, and to retain trees where appropriate as required by Council's Landscape Assessment Officer.	Satisfactory, subject to conditions
Principle 7: Amenity	Internal amenity for most occupants is of a satisfactory standard. The scheme has been generally well designed with regard to room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility. Apartment sizes range from 35sqm for studios to 90sqm. At the lower end of the SEPP spectrum the development complies. The upper end units are less than the minimum size nominated by the Rules of thumb of the	Satisfactory subject to additional conditions to protect the amenity of units.

	guidelines, however the discrepancy is only 5sqm.	
Principle 8: Safety & Security	The buildings have been designed to address the respective streets to ensure overlooking of public and communal spaces: Balconies and living areas are oriented to look towards the street where practical. Entrance-ways and ground areas will be well lit in accordance with a lighting plan to be recommended via condition, and security systems can be provided to all vehicle and pedestrian entrances. Care has generally been taken to avoid publicly accessible secluded areas. All parking has been provided in secure basement areas.	Satisfactory
Principle 9: Social dimensions & housing affordability	The proposed development will provide local commercial spaces, through site links & private and public outdoor spaces, including two new pedestrian access points east-west across the site. Many of the units will be one bedroom, which will assist in the provision of more affordable rental accommodation.	Satisfactory
Principle 10: Aesthetics	Council originally had concerns about the relationship of the Upward St buildings to the public domain, and the streetscape appearance of these. (This matter is addressed in more detail under the site specific DCP headings). The applicant has since amended the materials and finishes palette and provided more clarification and detail for both buildings, which has assuaged Council's concerns in this regard. The composition of building elements such as facades, balconies, walls, columns, windows, roofs, sunshades and privacy screens, materials such as masonry glazing and metalwork, textures such as render, paint, cladding, stone & colours, and the use of these modern materials and finishes, will result in a high quality external appearance of a modulated mixed-use development that will provide a strong contextual relationship to its surroundings and will make a generally positive aesthetic contribution to Leichhardt.. The proposed buildings will provide a	Satisfactory

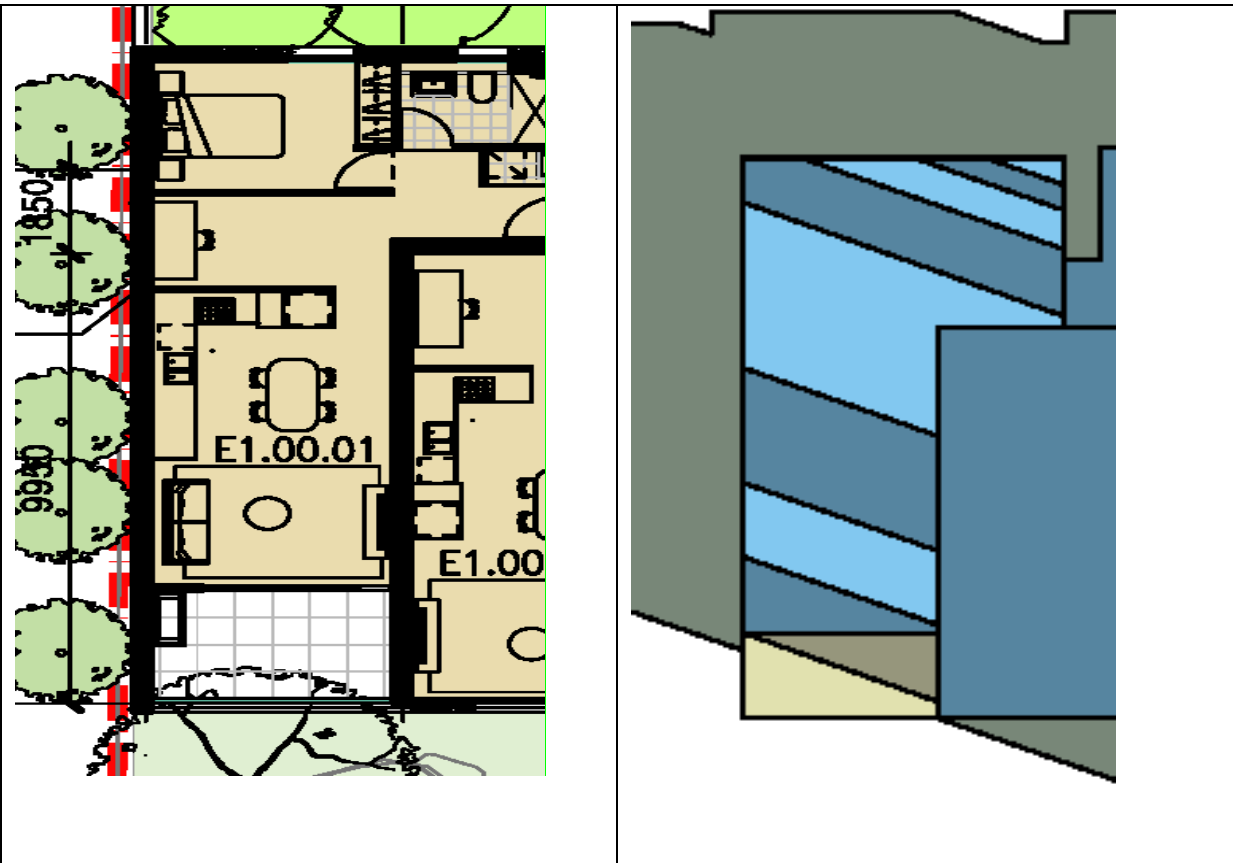
	positive contribution to the desired future character of the area.	
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The proposal has been considered against the Residential Flat Design Code (RFDC). The application is considered satisfactory.

Solar Access: The RFDC prescribes that at least 70% of the dwellings receive not less than three hours sunshine to a main living room and balcony between 9.00am and 3.00pm midwinter. The proposal as submitted (Revision G) achieves less than this. The applicant has advised that the compliance figure for internal solar access is 62% (between 9.00am and 3.00pm) and 70% (but only between 8.00am and 4.00pm). Compliance for outdoor areas between 9.00am and 3.00pm is 75%, and is therefore acceptable.

Council officers have checked the submitted documents and a number of minor discrepancies were observed. Several dwellings appear to obtain sunshine through what can only be blank walls, for example.

This would have the effect of reducing compliance for internal solar access to less than the 62% claimed. The following diagram indicates this discrepancy.

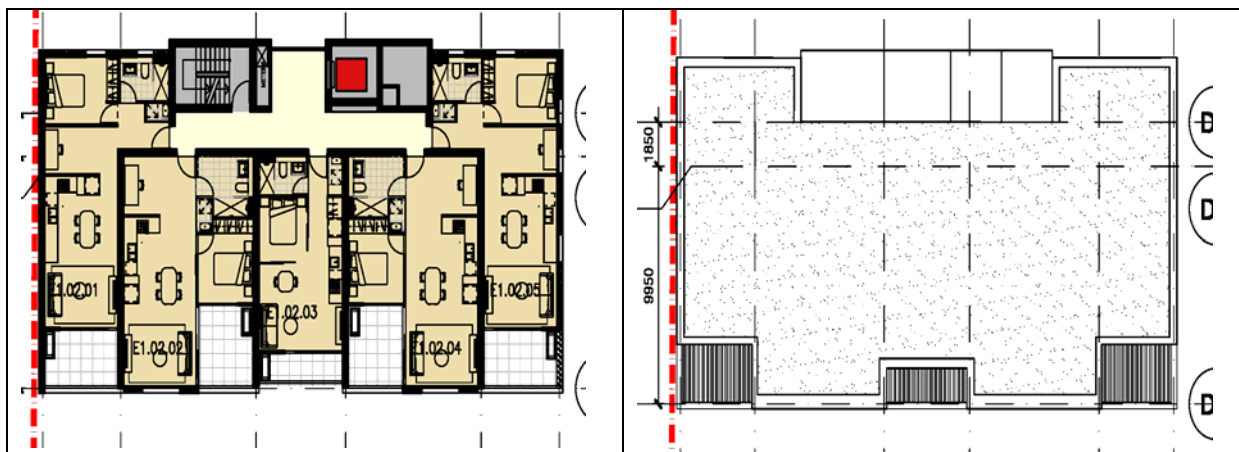


The extract above purports to demonstrate solar access at 9.00am to the northern most unit of the ground level of Building E, however as is clear from the floor plans this unit has a blank northern wall hard on the boundary with the Labelcraft site, with no windows, and cannot therefore obtain the sunshine indicated in the second column above. This is repeated for all units at this location.

Council has identified approximately ten units across the development which appear to have similar discrepancies.

Council staff have examined ways in which to achieve better solar penetration without requiring substantial design changes.

One solution identified by staff would be to insert solar scoops/skylights to the top five units of Building E. The diagram below has been included to demonstrate this possibility.



The extracts above demonstrate five dwellings with living rooms which would benefit from skylights or similar in terms of additional solar access.

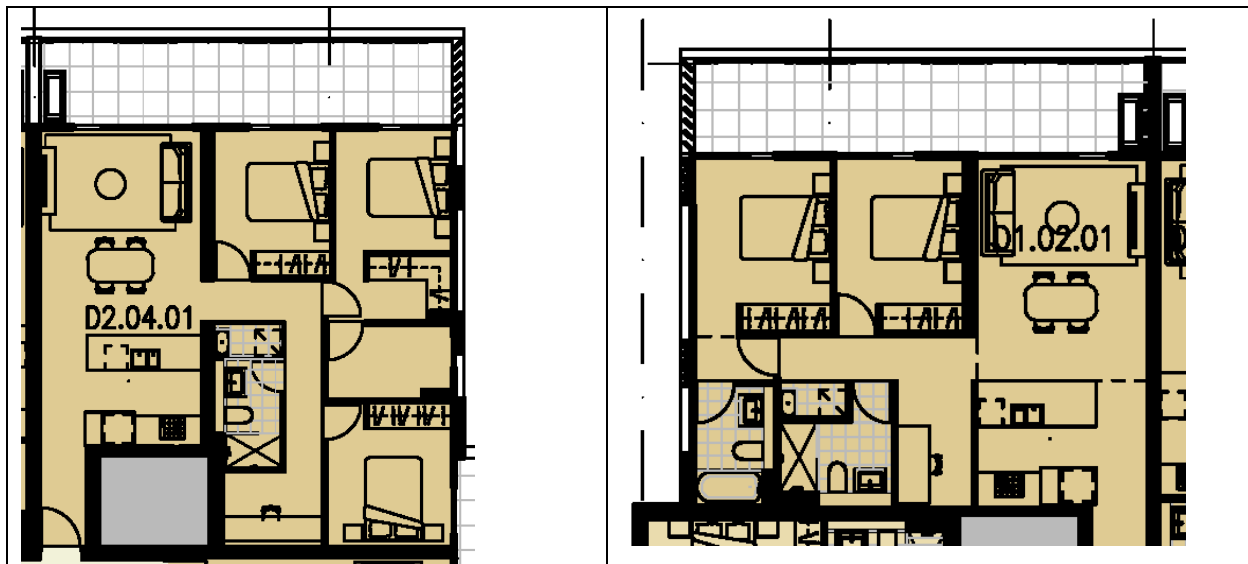
A condition of consent is therefore proposed in order to bring this into effect. This would have the effect of improving solar access under to SEPP to approximately 64%.

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

Buildings A and D exceed the recommended depth (22m each). Council staff continue to be concerned regarding the amenity of some of the dwellings contained in these buildings. It is proposed to mitigate these concerns by way of conditions requiring additional tree planting, and measures to protect internal privacy.

Apartment layout: The various iterations of the proposed floor plans have not entirely overcome Council's initial concerns with regard to dwelling amenity. Coupled with the building depths, which in several instances exceed the Guideline recommendation of 18m, numerous dwellings continue to have internalised "studies" with little to no direct access to natural light and ventilation (see figure below).



The applicant has previously advised Council that the study areas are the storage areas mandated by the RFDC. Given that these spaces have no or very limited access to natural light and given the applicants previous advice a condition of consent pertaining to the use of these spaces is also recommended.

Private Open Space (balcony) requirements: RFDC nominates a minimum of 6sqm for a studio balcony and 8sqm for one bedroom units. The minimum balcony size for two bedroom units is linked to the style of the unit (cross-over, corner, or cross-through – the RFDC does not have a minimum requirement for single-aspect two bedroom units, which is largely what is proposed). Given the overarching objective of the RFDC, Council has used the requirement for a one bedroom single aspect unit which is a balcony space of 10sqm – this has been adopted on the basis that if a one bedroom single aspect unit requires such a minimum it would be illogical to allow a larger unit a smaller balcony. There is nothing in the design constraints which would prevent larger (compliant) balconies from being achieved as in each instance the balconies can cantilever out from the building face with minimal amenity consequences. Any amenity implications, such as they are, can be addressed through appropriate conditions.

Compliance in this regard is readily achievable, and Council has been presented with no compelling reason why compliance cannot be achieved.

SEPP 65 and RFDC – Summary

Subject to conditions Council is broadly satisfied that reasonable compliance with the objectives of the SEPP can be achieved.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been lodged.

State Environmental Planning Policy (Infrastructure) 2007

In accordance with SEPP (Infrastructure) 2007, the development is classified as Traffic Generating Development, and in accordance with Schedule 3 of the SEPP, was referred to the Roads and Maritime Services (RMS) for consideration.

The response from the RMS raises no objection to the proposal on either traffic or parking grounds, subject to the following conditions being incorporated into any consent:

- 1. The swept path of the longest vehicle (to service the site) entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*
- 2. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1 – 2004.*
- 3. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.*

Leichhardt Local Environment Plan 2013 – Amendment 1

This amendment imposed site specific LEP changes on the development site, including re-zoning.

B4 Mixed use zoning

Objectives

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

The submitted development application proposes five retail tenancies with a gross floor area of 600sqm, which constitutes approximately 3% of the total gross floor area. The rezoning anticipated approximately 1700sqm of commercial/retail floor area, however Council has supported the applicant's position that a reduced non-residential floor space be provided, given only building B and C are located entirely within the B4 Mixed Use zone, where non-residential floor space is permissible. Building C is affected by an overland flow path and local flooding constraints, with a minimum height difference between the street and ground level of 1.5 - 2.3 metres, which limits the feasibility of any retail/commercial uses, given equitable access to this area of the site cannot be provided.

The proposed development will provide for an appropriate mix of compatible land uses, including residential, retail and commercial activities, and as such is considered to achieve the objectives of the zone.

R3 Medium Density Residential Zone

Objectives

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that 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.*

The proposed development will accommodate a variety of housing types within the medium density residential environment. The development site is located within close proximity to transport links, and will provide facilities and services to meet the day to day needs to residents. Although the proposal fails to provide satisfactory sunlight in accordance with the RFDC, the proposed building layout has been designed to maximise residential amenity for the subject site and surrounding properties, and is therefore consistent with the objectives of the zone.

Clause 4.3 – Building Heights

Maximum building height on this site is 32m above existing ground level. The application complies with this restriction.

Clause 4.4 Floor Space Ratio

Floor Space Ratio on this site is allowed a maximum of 2.15:1. The application complies based on the GFA calculation plans submitted with the application.

Clause 6.14 Development control plans for certain development

Amendment 1 to LLEP 2013 exempts the subject site from this provision.

Leichhardt Local Environment Plan 2013

The site is subject to (some of) the provisions of Leichhardt Local Environmental Plan 2013 (LLEP 2013), which are addressed in detail below.

Clause 1.2 Aims of Plan

The proposal is consistent with the aims of the plan.

Clause 4.1 Minimum subdivision lot size

Subdivision is not proposed as part of this application.

Clause 5.9 Preservation of trees or vegetation

The site is currently occupied by a number of palm trees which do not contribute significantly to the site or streetscape. No objection is raised to the removal as more significant planting is proposed along George and Upward Streets and within the communal open space area as part of the proposed development.

Clause 5.10 Heritage Conservation

The site is not located within a heritage conservation area, nor does it contain any listed heritage items.

Clause 6.1 Acid sulfate soils

The site is located within class 5 acid sulfate soil. No works are proposed within 500 metres of an adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum nor is the watertable likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Clause 6.2 Earthworks

The proposed excavation required to establish the basement levels and remediate the site has been outlined within the supporting documentation submitted by the applicant. The proposed earthworks can be supported subject to the recommendations within the consultant reports being incorporated in any development consent to prevent detrimental impacts on the environmental functions and processes and neighbouring uses.

Clause 6.3 Flood Planning & Clause 6.4 Stormwater Management

The proposal has been designed to accommodate the 1 in 100 year flood planning level and accommodate the alteration to the existing stormwater system, including the provision of an overland flow path at the corner of McAleer and Upward Streets, as is therefore considered to be satisfactory in this regard.

6.13 Diverse Housing

- (1) The objective of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes shop top housing.*
- (2) This clause applies to development for the purpose of a residential flat building or a mixed use development that includes shop top housing but only if the development includes at least 4 dwellings.*
- (3) Development consent must not be granted to development to which this clause applies unless:
 - (a) 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*
 - (b) 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.**

The proposal complies with the requirements of this clause as outlined in section 1 of this report.

(a)(ii) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Competition) 2010
- Draft Leichhardt Local Environment Plan 2013 – Amendment No.4
- Draft State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (Amendment No 3)

The proposal can satisfy the requirements of Draft State Environmental Planning Policy (Competition) 2010.

There are no provisions of Draft Leichhardt Local Environment Plan 2013 – Amendment No.4 which are of relevance to this assessment.

The draft amendments to State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (Amendment No 3) have been considered under (a)(1) of this report.

(a)(iii) Development Control Plans

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

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

George and Upward Street, Leichhardt Development Control Plan 2014 (DCP 2014)

Pursuant to clause 1.5 of DCP 2014, 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*”, the proposed development has incorporated an alternate ‘design solution’ to DCP 2014 for the subject site, which is assessed on its merits as follows.

2.1 Site Layout and Built Form

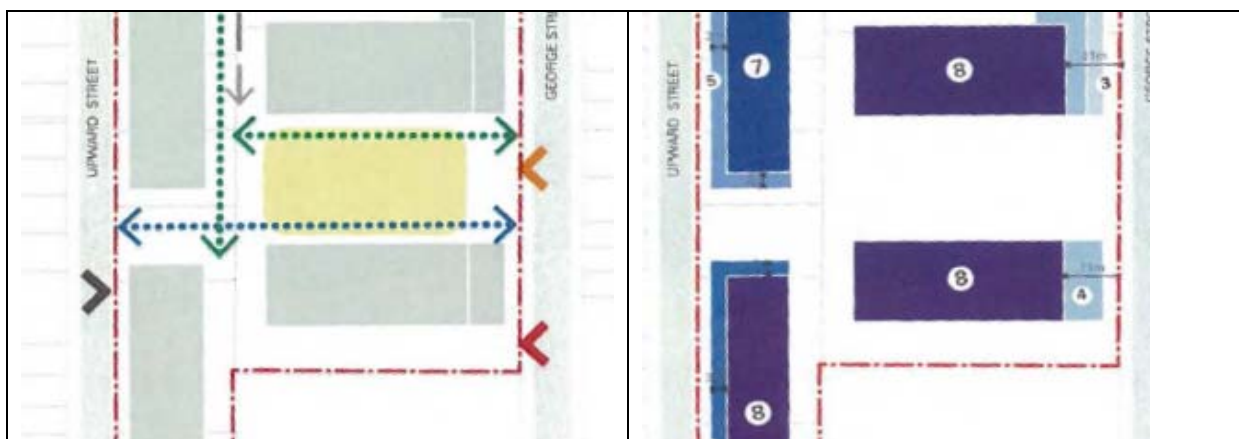
Objectives

- O1. To integrate new buildings with the adjoining and neighbouring buildings through the transition of building height.*
- O2. To provide a design that is responsive and sympathetic to the form and cultural character of the existing urban landscape.*
- O3. To use building orientation to maximise views and minimise overlooking and overshadowing on neighbouring properties.*
- O4. To maximise the benefits of communal open space for residents.*
- O5. To create built form that responds to the site terrain and flood risks.*
- O6. To provide opportunities for the provision of non-residential uses at the ground floor in appropriate locations that activate the public domain.*

Controls

- C1. New building forms on the site are to be generally consistent with the layout shown at Figure 2 and the following principles:
- (a) address and align with the streets to form perimeter blocks / courtyards,
 - (b) have depths generally as shown and consistent with the NSW Residential Flat Design Code,
 - (c) meet solar access and visual and acoustic privacy requirements outlined in this DCP,
 - (d) the ground floor of buildings indicated at Figure 2 may include non-residential uses that have an active frontage to the public domain, and
 - (e) adequate separation is provided for the at-grade shared zone off George Street including pedestrian links and landscaping.
- Variations may be considered where the above principles and the aims and objectives of this DCP are satisfied.

Comment: Generally the development is compatible with the above; although building footprints have been modified in regard to the anticipated development around the middle/southern half of the site. In this area the DCP had anticipated two eight-storey buildings running east-west with a central plaza type space between, containing one of the two site through links (see plan extract below).



Through-site links and central plaza/shared zone

Building height and footprints.

(Source: George & Upward Streets, Leichhardt DCP 2014)

The developer argues, convincingly, that this arrangement would have resulted in the shared plaza being heavily overshadowed and overwhelmed, as well as limiting the number of proposed dwelling units that could have good access to northerly sun. As an alternative the applicant has suggested a design which deletes the northern most 8 storey building on the site, and redistributes that floor space partly to the southern 8 storey form, which now becomes nine storeys, and partly to the building facing George Street, wherein some areas which the DCP 2014 nominates as being 3 and 4 storeys become instead four and six storeys.

In terms of the redistribution of floor space/building height, it is considered that such redistribution would have to be equal to or better than the DCP 2014 provisions, in terms of meeting the objectives. The modified design is demonstrated below.

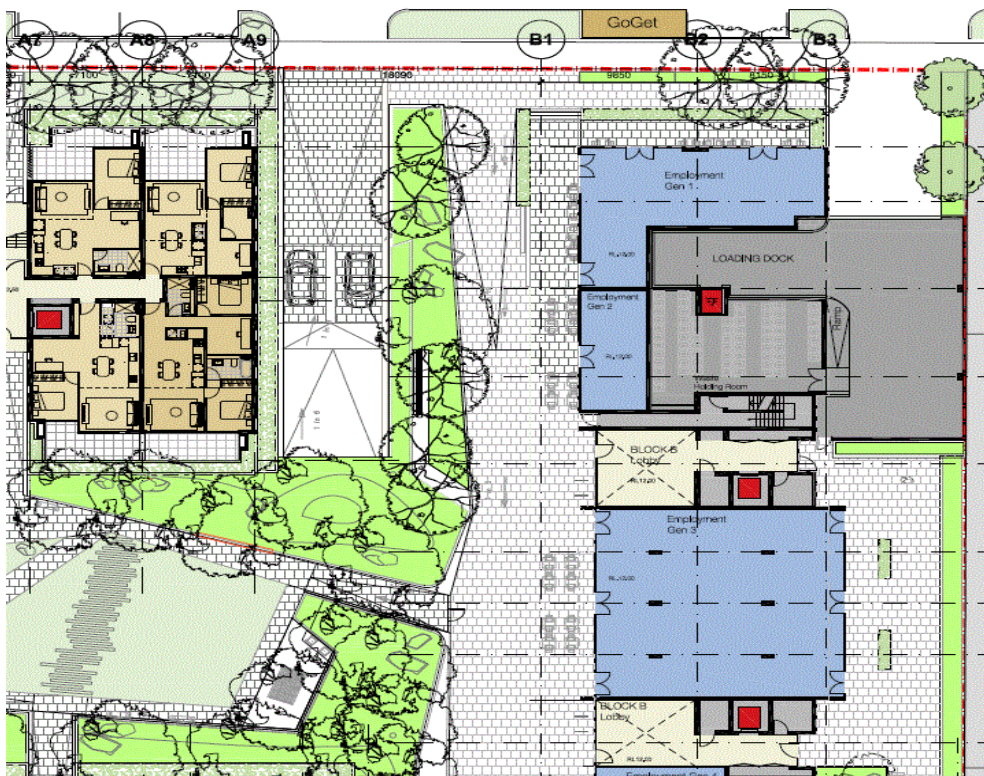


Diagram: Amended entry layout to basement car park – pedestrian access separated - building footprint east-west reduced and communal space opened up

Council accepts that the applicant's preferred design results in better amenity outcomes for users of the plaza, through-link and retail/café tenancy, as this area would be less visually overwhelmed and much less overshadowed. The modification also allows the north facing units of Building B to have largely unfettered solar access.

The addition of a ninth storey to Building B is compatible with the over-riding height limit in the Leichhardt Local Environmental Plan 2013. More importantly, it is achieved in a location which creates no further overshadowing to any nearby residential dwelling or property than that already allowed for under the DCP 2014. In terms of overlooking, the development of an additional storey results in two additional units having potential view-lines to the backs of Flood Street properties.

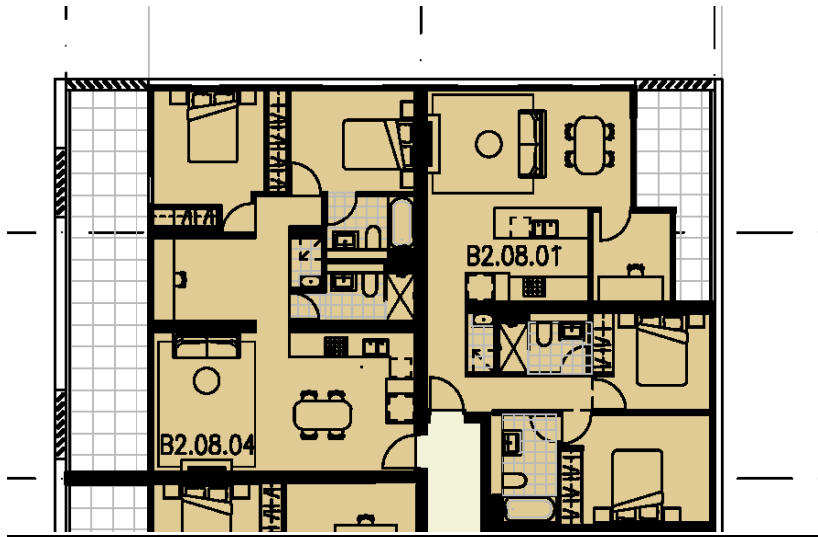
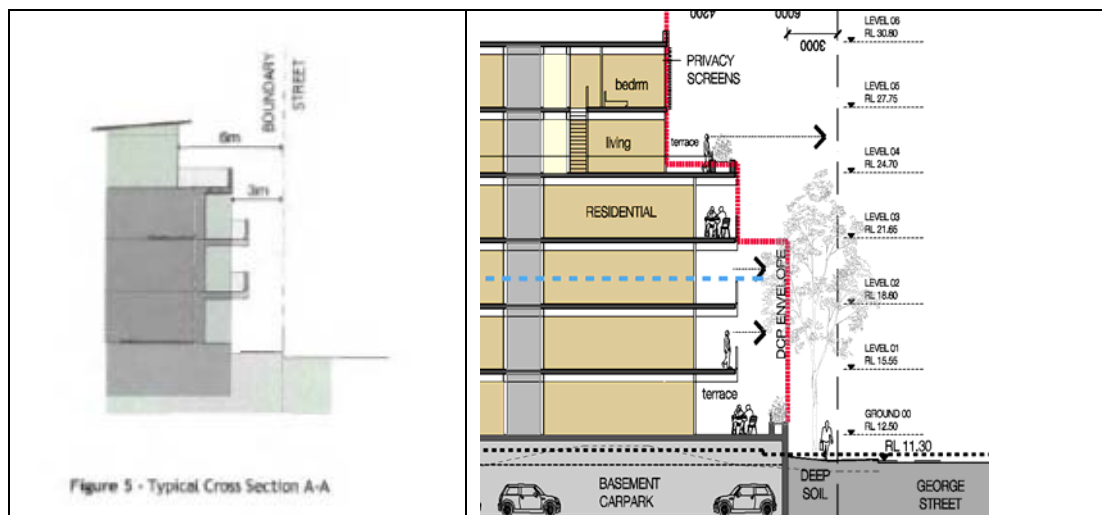


Diagram: Floor plan of top level (9th storey) units facing George St.

The modification of Building A from 3 and 4 storeys to 4 and 6 storeys has also been examined with regard to justification for this redistribution. The two additional storeys would result in some additional overshadowing to the central communal space during the morning at different times of the year, but the orientation to true north means that this internal impact is very limited, and other changes to building footprint have resulted in better solar outcomes for the communal space overall.

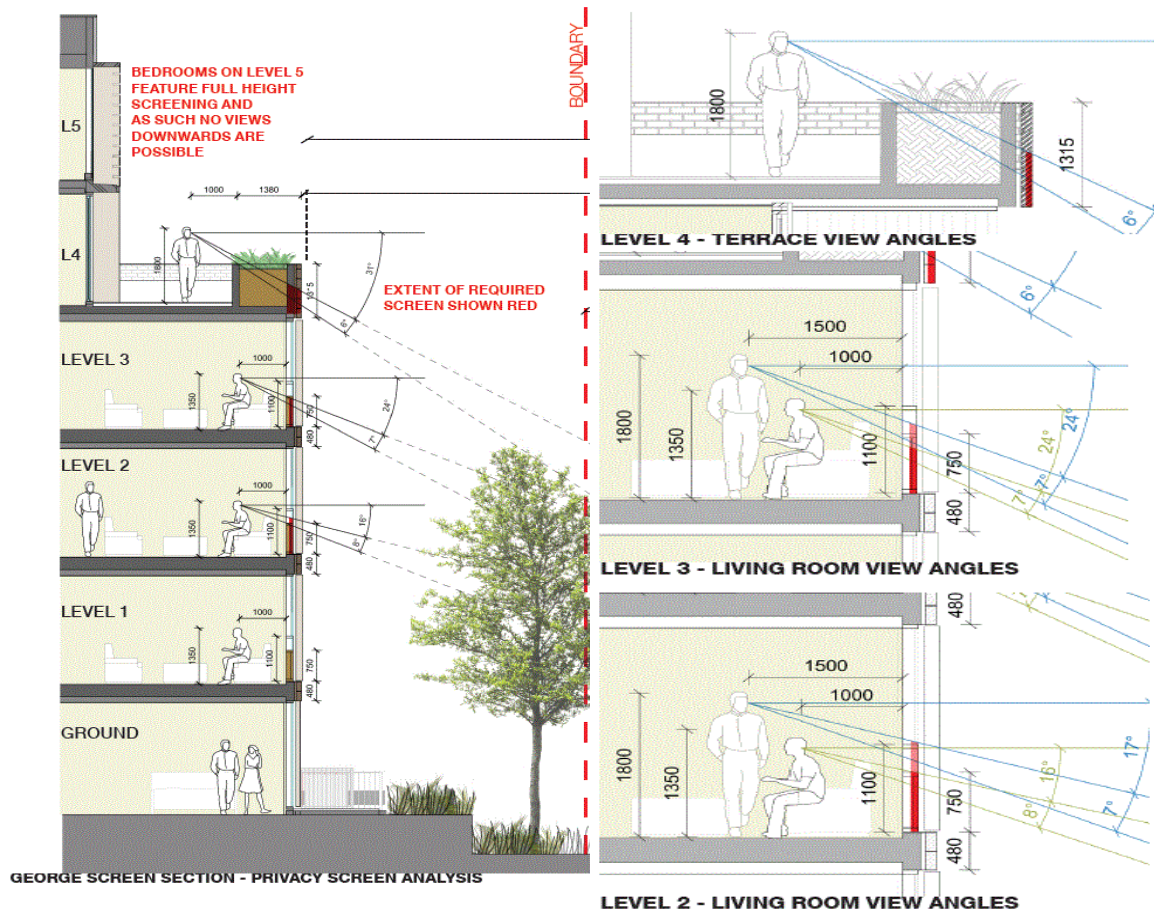
The addition of these two extra storeys does not result in additional overshadowing to the rear of the Flood St neighbours, partly because the design has incorporated greater setbacks from the George Street boundary than the DCP suggests.



DCP setback recommendations Applicant's alternative with greater setbacks

With regard to overlooking, the design has proposed two-level dwellings utilising the top two floors, with living rooms/balconies on the lower levels, and bedrooms above. The bedroom windows are proposed to be fully screened. The balconies at the lower levels will be screened by a solid spandrel to a height of 750mm, combined with a 350mm high translucent glass spandrel. In relation to level 4 terraces, the proposed

planter boxes have been raised to 1380mm high to eliminate downward looking, as demonstrated in the below graphics.



This approach is supported by Council and will appropriately mitigate overlooking to the surrounding residential properties.

Summary: The deletion of the northern 8 storey building, and the redistribution of yield elsewhere on the site results in better communal and public amenity outcomes for the open space and through-site link/plaza, without necessarily compromising the solar access and privacy protections identified within the DCP for neighbouring properties. Consequently it is concluded that the design is appropriate having regard to the flexibility inherent in the DCP as expressed below.

C2. Building footprints (including balconies) are to cover no more than 50% of the site area.

Comment: The building footprint is 4,942sqm, which results in a total site coverage of 49%, which is compliant.

C3. The maximum number of storeys, excluding basement and/or podium parking areas, is to be in accordance with Figure 3. Structures including plants rooms, roof elements, lift overruns and landscape elements may be provided on podium areas or rooftops above the specified number of storeys, subject to consideration of potential impacts on the streetscape, the amenity of the adjoining properties and the overall character of the area.

Comment: The redistribution of height in the development has been assessed above, and found to be an acceptable solution to DCP 2014.

C4. The predominant street frontage height along George Street is to be 3 storeys. Along Upward Street it may vary from 3 - 6 storeys (increasing from north to south).

Comment: The predominant street frontage height to George Street is proposed to be four storeys but with a greater setback in order to mitigate the height. This is considered an acceptable variation to the DCP.

C5. Upper level setbacks are to be provided as shown at Figures 3, 5, 6 and 7, in order to minimise the bulk of the taller building forms. Additional upper level setbacks may be required to improve solar access within the site to both apartments and open space.

Comment: The proposed design has adopted this strategy.

C6. The ground floor of buildings is to be set above the Flood Planning Level.

Comment: The proposal is compliant in this regard.

C7. Building setbacks are to be consistent with Figure 4. Relaxation of the setbacks at the corner of Upward and McAleer Streets is possible where greater expression to the corner of the building is proposed.

Comment: Building setbacks are consistent with the DCP.

C8. The maximum length of a building fronting a street is 60m.

Comment: The maximum building length (of Building D facing Upward St) is 58m and is therefore compliant with this control.

C9. The main building fronting George Street is to be divided into 3 segments at ground level with allowance for pedestrian access points at ground level into the site. At least one of the access points is to be a full height gap between buildings with a minimum width of 10m.

Comment: It must be remembered that these controls apply to the entirety of the area covered by the DCP, and not just to the Kolotex site. This means that there are two possible interpretations in regard to this control – firstly, that it is to be achieved over the entirety of the area covered by the DCP thus meaning that each development application only has to achieve partial (proportional) compliance, or, secondly, that each application must achieve total compliance in its own right, notwithstanding any equal or greater compliance achieved by the other application. The second position would arguably impose greater constraints on a given development application than anticipated by the DCP, and would not be consistent with the DCP provision that enjoins flexible application of those same controls. The Kolotex DA has divided the main George St building (on its site) into three discernible segments, with a separation to the next north and south buildings of 6m and 20m respectively. This seems to be a reasonable interpretation of the DCP control, bearing in mind that any application for the Labelcraft site will need to demonstrate a similar nature of achievement.

C10. Building separation distances are to be generally consistent with those shown at Figure 4 and the NSW Residential Flat Design Code.

Comment: Figure 4 of the DCP generally shows 12m setbacks between buildings within the site, 9m from the tallest building to the southern boundary, and 15m from the 7 and 8 storey proposed buildings along Upward Street. SEPP 65 provides for lesser setbacks for lower buildings, and varied setbacks depending on whether the separation is between habitable rooms/balconies and other habitable rooms/balconies, or to/between non-habitable rooms. Generally setbacks are required to increase the higher the building is, with a flexible allowance for habitable vs non-habitable spaces.

The separation of buildings in the proposal is not entirely consistent with either the SEPP or the DCP. For example, Building A (6 storeys) is only separated from Building B (9 storeys) by 18m from habitable room to habitable room/balcony. This is acceptable for buildings up to eight storeys but is less than the 24m required for buildings eight storeys or greater. Building D and E are only separated by 9.3m instead of the 12m nominated in the SEPP. Building B (9 storeys) and Building C (7 storeys) are only separated by 7.8m at the closest point instead of 18m.

Council is generally satisfied with this outcome as any amenity implications are able to be overcome or mitigated by condition.

2.2 Building Design

Objectives

- 01. To provide a mix of dwellings that cater for the needs of the resident population and to encourage a diverse population.*
- 02. To ensure that the grain, rhythm and palette of materials used in the design of new buildings respond to the character of the surrounding area.*
- 03. To ensure that buildings have a high quality appearance and have regard to the character of the surrounding area.*
- 04. To minimise the impacts of vehicular entry on the streetscape where possible.*

Comment: The mix of dwellings is consistent with clause 6.13 of LLEP 2013. Council officer sought an urban design review by a third party in relation to the previous development application which concluded that the design presents well and has appropriately handled streetscape appearance, which is reproduced in the subject application. Only two access points are provided to the site to minimise the impacts of vehicle entry locations on the streetscape.

Controls

- C1. Buildings fronting George Street, the northern end of Upward Street and the internal shared zone / plaza are to be designed with individual entrances and ground level (i.e. terrace or maisonette style dwellings).*

Comment: Individual entries have not been provided to all such units. Units at ground level facing George and Upward Street do not lend themselves to such a design outcome, as it will result in direct entry through the private open space and main living areas, thus impacting the privacy of occupants.

- C2. Minimum dwelling sizes are to be consistent with the NSW Residential Flat Design Code.*

Comment: The proposal complies in this regard.

C3. Adaptable housing is to be in accordance with Part C - Section 3 - C3.14 Adaptable Housing of Leichhardt DCP 2013.

Comment: The proposal complies in this regard. A total of 10% of the dwellings are required to comply, and this will be reinforced by condition.

C4. Building facades facing both George and Upward Streets are to display a distinct vertical modulation and rhythm that complement the fine grain character of the locality.

Comment: The proposal complies in this regard.

C5. Articulation for balconies, sun shading devices, architectural features and the like may extend up to 1m into the building setback area on both George and Upward Streets, for no more than 50% of the facade area.

Comment: No encroachments in the building setback area have been proposed, however where possible, Council has recommended that balconies extend into the setback area to achieve improved solar access to units.

C6. Building articulation, design and materials are to be of contemporary design providing an appropriate balance between the new development and the older character of the locality.

Comment: The proposal complies with this clause.

C7. Buildings elements, including balconies, entries, roof features and screening are to contribute to the character of the streetscape and the quality of the building design.

Comment: Complies.

C8. Roof forms, plant and lift overruns are to be designed to be simple compact forms that are visually unobtrusive.

Comment: Complies.

C9. Air-conditioning units are located and designed to be screened from view from other dwellings, other sites and the public domain.

Comment: It appears that air conditioning units have been recessed into the balconies, and will be sufficiently screened by the proposed solid balustrades to satisfy this requirement.

C10. The bulk of the larger buildings is to be articulated to create proportional relationships with the surrounding buildings.

Comment: Complies.

C11. Expansive sections of blank facade are to be avoided and roof equipment is to be integrated into building articulation.

Comment: Complies.

C12. Building materials are to be fit for purpose and reflect the character and climatic conditions and be of a suitably high specification to ensure long term quality and sustainability.

Comment: The proposal is supported by a BASIX Certificate and Report which has incorporate appropriate building materials to achieve demonstrate compliance with the SEPP in relation to heat and cooling loads.

C13. Vehicular entries are to be designed to minimise the visibility of garage doors on the street. This is to be achieved by providing parking below ground level and setting doors back from the street boundary and building edge where possible.

Comment: Complies.

C14. Particular attention required to the design of the ground level along the Upward Street frontage where parking / podium areas are required to be elevated above the ground due to flooding. Any structure is to be treated through the use of materials, landscape etc to enhance its streetscape presentation.

Comment: Additional plans and detailed sections have been submitted demonstrating the landscaping treatment of this area. Staggered walling effects are also proposed, in order to mitigate the visual impact on the wall, as per the artists image below. This is considered satisfactory.



2.3 Residential Amenity

Objectives

01. To optimise solar access to habitable rooms and private open space of new housing to improve amenity and energy efficiency.

02. *To protect the visual privacy of adjoining dwellings by minimising direct overlooking of principal living areas and private open space.*
03. *To ensure that dwellings have good access to fresh air and that energy efficiency is maximised.*

Controls

C1. Solar access to residential development on the site is to meet the minimum requirements of the NSW Residential Flat Design Code, specifically, living rooms and private open spaces for at least 70% of apartments should receive a minimum of 3 hours direct sunlight between 9 am and 3 pm in mid-winter.

Comment: Refer to SEPP 65 for discussion.

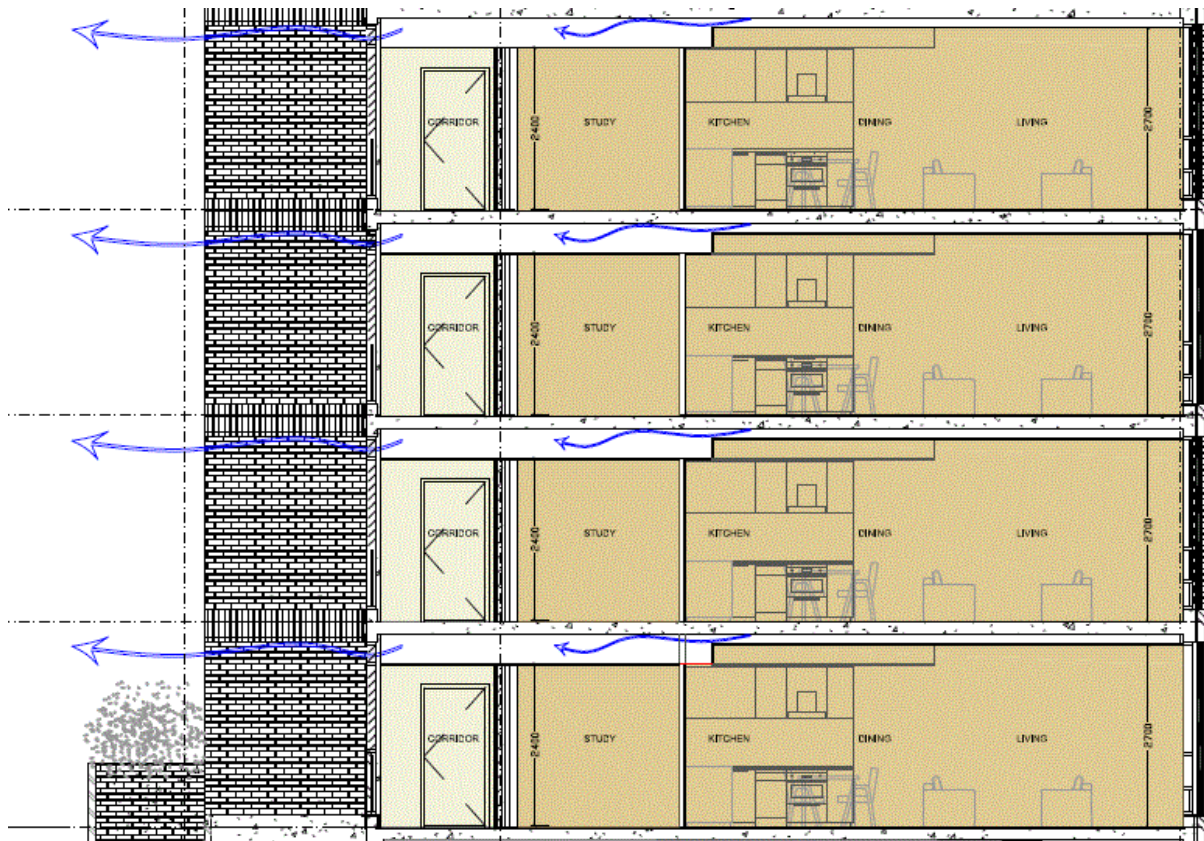
C2. New development is to retain appropriate solar access to adjoining residential properties, being:

- (a) at least three hours of direct sunlight to 50% of the primary private open space and into living rooms between 9am and 3pm on 21 June, or*
- (b) the existing levels of direct sunlight between 9am and 3pm on 21 June (whichever is less).*

Comment: The submitted shadow diagrams demonstrate that the alternative solution to the building layout will result in less overshadowing to surrounding residential properties than the resulting overshadowing caused by the DCP building layout, and is therefore supported in this regard.

C3. Residential buildings are to be naturally cross ventilated consistent with the NSW Residential Flat Design Code.

Comment: Additional unit cross ventilation is proposed to be achieved via plenums. (See figure below for demonstration)



C4. Visual privacy within and external to the site is to be achieved through a combination of:

- (a) building setbacks and separation consistent with Figure 4 and the NSW Residential Flat Design Code,*
- (b) building layouts that minimise direct overlooking from apartments to other rooms and private open spaces,*
- (c) screening devices to retain views and privacy from rooms and outdoor spaces, and*
- (d) staggering doors, windows and primary balconies to block direct views between apartments.*

Comment: The applicant has submitted a screening solution which incorporates a 750mm high solid spandrel and additional 350mm translucent spandrel to prevent direct overlooking from units that front George and Upward Streets to surrounding residential properties. This approach has allowed for an improved level of solar access to be provided to units whilst maintaining a reasonable level of privacy. This same approach has also been applied to internally facing units, although where appropriate, habitable windows have been offset from balconies as required by the draft conditions of consent.

C5. Buildings fronting the residential properties to the north of the site are to be designed to minimise overlooking.

Comment: Screening devices have been provided to the northern façade of Building A to minimise overlooking to any residential building located on the Labelcraft site.

C6. New development is to incorporate measures that reduce the entry of noise from external sources into dwellings. Where necessary, include acoustic measures to reduce the impact of noise from external sources.

The application was supported by an acoustic report which provides recommendations to minimise noise from external sources. The application is supported in this regard subject to the draft conditions of consent.

2.4 Open Space and Landscape

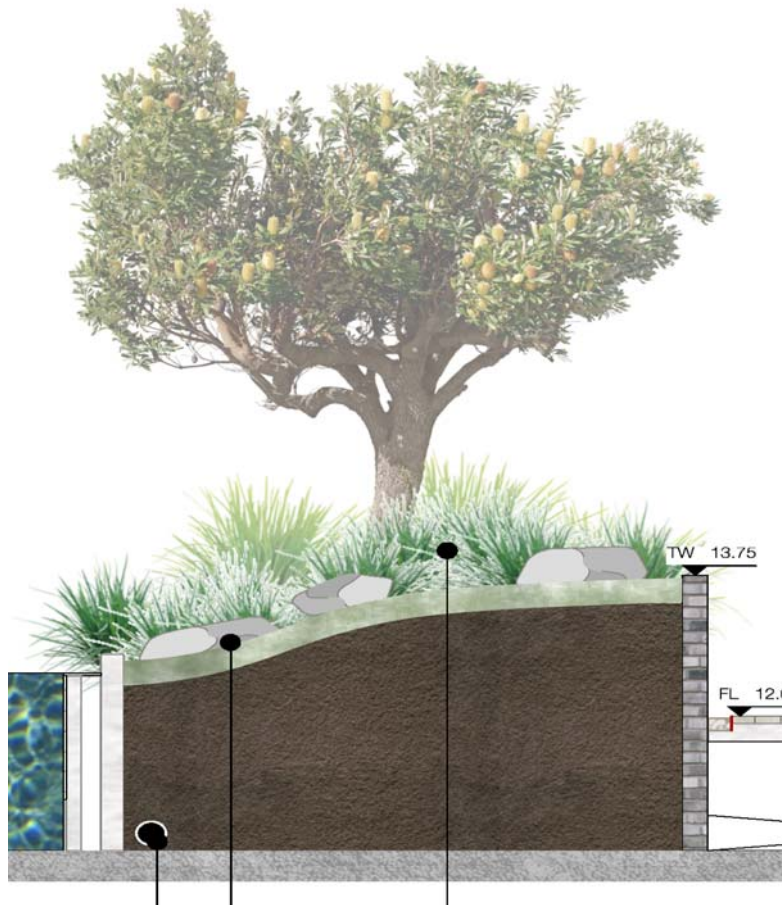
Objectives

- 01. To provide communal open space for residents that offers social opportunities and quality outlook from apartments.*
- 02. To provide landscaping that supports substantial trees as well as a diverse range of planting, including native species.*
- 03. To improve local amenity by incorporating landscaping, open and public spaces, integrated connections and environmental features.*
- 04. To provide a new streetscape and external pedestrian footpath zone to contribute to the surrounding network.*

Controls

- C1. Indicative landscaped areas are shown at Figure 8. A minimum of 20% of the site area is to be landscaped area (either communal or private). The landscaped area is to include a large area(s) in the middle of the site to form a communal open space for residents. Opportunities for public art/ furniture in the central communal open space area should be considered, particularly a piece relating to the historical use of the site.*
- C2. A minimum 10% of the site is to consist of deep soil planting. The deep soil planting areas are to be:*
- distributed across the site,*
 - a minimum width of 3m,*
 - form part of the semi-private communal open space,*
 - have no structures encroaching into the area below or above the ground level,*
 - landscaped with large trees, and*
 - planted with a majority of indigenous species providing habitat for native fauna.*

Comment: The required deep soil landscaped areas are provided along the perimeters of the site facing George and Upward St, and within the confines of the site. The required deep soil planting areas are provided along the street edges, which achieve three metres deep and constitute 10% of the site area. No “deep soil” area is technically provided in the central communal space, as this area has a basement carpark wholly beneath it and does not meet the definition. However raised banked areas of deep soil are included in the landscape plans to achieve a similar planted outcome – see figure below



Refer to section 6 of this report for discussion on planting species and quantities.

C3. Street verges and buildings setbacks to George and Upward Streets are to be utilised for widened pedestrian footpaths and substantial street tree planting (including deep soil planting, where possible).

Comment: Complies.

C4. Opportunities for green walls, green roofs and communal gardens within the site are to be explored.

Comment: No green wall, roofs or communal gardens are proposed.

C5. Landscape materials are to be fit for purpose, reflect the character and climatic conditions and be of a suitably high specification to ensure long term quality and sustainability.

Comment: A high percentage of native planting is proposed to match the local climatic conditions.

C6. The external public domain and internal communal open space are to be designed with a similar material palette to create a continuous path of travel across the site.

Comment: Complies

C7. Fencing to private open space is to be designed to achieve a level of privacy for residents whilst not visually overwhelming the streetscape or internal circulation spaces.

Comment: A fencing strategy has been proposed which complies with the above requirements.

C8. The existing overhead powerlines adjacent to the site in George Street are to be relocated underground.

Comment: The existing powerlines will be relocated underground.

C9. Private open space is to be consistent with the NSW Residential Flat Design Code. Where it is located at ground level, it is to have a minimum area of 16m², a minimum dimension of 3m with a maximum gradient of 1 in 20.

Comment: The private open space for each unit has been designed to comply with the RFDC rule of thumb, including ground floor POS.

C10. Private open space is to be directly accessible from the living area of the dwelling and capable of serving as an extension of the living area.

Comment: Complies.

C11. Common open space/courtyards are to be located, designed and landscaped to:

- (a) enhance views from residential apartments and create recreational opportunities,*
- (b) be the focal point of a site and incorporate public art and water features where appropriate, and*
- (c) achieve good amenity for the dwellings in terms of solar access, natural air flow and ventilation.*

Comment: Complies.

C12. Provision of additional unroofed communal open space on roof tops is encouraged in locations where it does not adversely impact on the amenity of surrounding residents.

Comment: No communal open space on roof tops are proposed as part of this development.

2. 5 Access, Movement and Parking

Objectives

- 01. To facilitate pedestrian access through the site to link Upward and George Streets.*
- 02. To ensure that traffic, transport and parking solutions are integrated within the development without diminishing the quality of amenity to occupants and neighbours.*
- 03. To minimise visual impact of parking areas and driveways.*
- 04. To encourage use of active transport including public transport, cycling and walking.*

Controls

- C1. At least two publicly accessible through site links are to be provided linking George and Upward Streets generally as shown in Figure 9. The through site links are to:*
- (a) have a minimum width of 6m,*
 - (b) be direct and have a clear line of sight between public places and be open to the sky as much as is practicable,*
 - (c) align with breaks between buildings so that views are extended and there is less sense of enclosure,*
 - (d) be easily identified by users and include signage advising of the publicly accessible status of the link and the places to which it connects.*
- C2. Preferred vehicle access points are to be generally consistent with Figure 9. A maximum of 3 basement access points are to be provided and all required vehicular parking is to be located within the basement parking areas.*
- C3. A shared zone I plaza is to be provided off George Street. The shared zone is to provide space for loading and service delivery vehicles and accessible visitor parking. The level of the shared zone/ plaza is to include minimal falls to allow accessibility for all users.*
- C4. Any vehicle access beyond the shared zone I plaza is to be strictly limited to emergency vehicles and only provided if required.*
- C5. Basement parking areas and structures are not to protrude more than 1.0m above the level of the adjacent street or public domain, except for in the south-western corner of the site that is flood affected. Where visible, basement structures and vent grills are to be integrated into the building and landscape design to minimise visual impact.*
- C6. The maximum rates for on-site car parking are:*
- Residential Studio Dwellings Nil*
 - 1 Bedroom Dwellings 0.8 per dwelling*
 - 2 Bedroom Dwellings 1 per dwelling*
 - 3+ Bedroom Dwellings 1 per dwelling*
 - Visitors 0.1 per dwelling*
 - Commercial 1.5 per 100m² GFA*
- C7. Residential development must provide at least 2% of total car parking spaces as car share parking spaces. Car share parking spaces are included in the maximum number of car parking spaces permitted on the site. The car share parking spaces are to be:*
- (a) retained as common property by the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time,*
 - (b) made available for use without a fee or charge,*
 - (c) publicly accessible at all times and visible from the public domain wherever possible, so that scheme members do not require specific security access to the space. They are to be provided on site, where possible. However, accessible, convenient locations along McAleer and George Street would also be acceptable,*
 - (d) located together in the most convenient locations relative to car parking area entrances and pedestrian lifts or access points,*

- (e) located in a well lit place that allows for casual surveillance,*
- (f) located adjacent to a public road and integrated with the streetscape through appropriate landscaping where the space is external, and*
- (g) made known to building occupants and car share members through appropriate signage which indicates the availability of the scheme and promotes its use as an alternative mode of transport.*

A development application is to demonstrate how the car share parking space is to be accessed, including arrangements for access if car share parking is accessed through a security gate. A covenant is to be registered with the strata plan advising of any car share parking space. The covenant is to include provisions that the car share parking space(s) cannot be revoked or modified without prior approval of Council.

C8. All bicycle parking is to comply with the provisions contained in Part C - Place - Section 1 - General Provisions, C1.11 Parking, C1.6.3 Bicycle Parking Rates and Facilities of Leichhardt DCP 2013.

C9. A Travel Access Guide will be required to be available to residents and non-residential tenants of the development and approved by Council prior to occupation.

C10. Future development applications are to provide details of legal covenants, notations and easements to secure public access over privately owned through site links and shared zones/plazas.

C1 – C10 Comment: Parking and access have been designed to the satisfaction of Council. The shared zone was deemed best outcome, as it would have involved avoidable conflicts between pedestrians and vehicles. The amended scheme, whilst not technically in accord with the above, is considered superior by Council due to improved safety and urban design. Parking is compliant with the controls. Other aspects above would be addressed by way of conditions. Consultation with share car providers indicates six car spaces would significantly exceed demand, and that only two spaces are necessary. One space is proposed to be provided in the basement (effectively for the needs of occupants of the development) and another space is to be provided on George Street. Council's Traffic Engineer concurs with both the quantum, and the locations.

2.6 Safety and Security

Objective

01. To minimise opportunities for criminal and anti-social behaviour.

Controls

- C1. Building design is to maximise opportunities for casual surveillance of the streets and communal spaces within the site.*
- C2. Ground floor dwellings fronting the streets are to have an "address" or "front door" that is visible and directly accessible from the street where possible.*
- C3 . The detailed design of the external areas of the ground floor is to minimise blind-corners, recesses and other areas which have the potential for concealment.*
- C4. Building entries are to be clearly visible, unobstructed and easily identifiable from the street, other public areas and other development.*

C5. Where practicable, lift lobbies, stairwells and corridors are to be visible from public areas by way of glass panels or openings.

Comment: With the exception of direct street accessibility to ground floor units the above is satisfactory.

2. 7 Flooding and Stormwater

Objectives

- 01. To minimise the impact of flooding on adjacent properties and be consistent with the relevant provisions contained at Part E - Section 1 - Sustainable Water and Risk Management of Leichhardt DCP 2013.*
- 02. To reduce peak stormwater flows downstream, minimise transport of pollutants into waterways and maximise water recycling.*

Controls

- C1. Development is to incorporate an appropriate Flood Planning Level to be designed at 0.5m above the 1 in 100 year ARI flood event.*
- C2. The Water Management report submitted with the development application is to specifically address:
 - (a) flooding impacts affecting the site , with particular regard to the south western corner of the site.*
 - (b) the necessary augmentation of existing stormwater capacity in McAleer and Upward Streets, and*
 - (c) the accommodation of water sensitive urban design strategies on the site.**

Comment: The proposal has been designed to accommodate the 1 in 100 year flood planning level and accommodate the alteration to the existing stormwater system, including the provision of an overland flow path at the corner of McAleer and Upward Streets. Refer to section 6 of this report for further discussion.

2.8 Waste Management

Objectives

- 01. Waste Management to be consistent with the relevant provisions within Part D- Section 2 - Resource Recovery and Waste Management of Leichhardt DCP 2013.*
- 02. To ensure that adequate on-site provision is made for the temporary storage and disposal of waste and recyclable materials.*
- 03. To ensure that opportunities to maximise source separation and recovery of recyclables are integrated into the development.*

Controls

- C1. Facilities required for the management, temporary storage, loading and unloading of waste and recyclable materials are to be provided wholly within the development.*
- C2. Waste management and storage areas are to be located, designed and constructed to ensure integration into the streetscapes.*

Comment: The proposed waste management system, including storage areas are consistent with the requirements of LDGP 2013. Refer to section 6 for further discussion of the proposed waste management system.

Leichhardt Development Control Plan 2013 (LDCP 2013)

The following sections of Leichhardt DCP 2013 apply to development of the site. All other parts of the Leichhardt DCP 2013 do not apply to the site. In the event of an inconsistency between this DCP and the Leichhardt DCP 2013 and any other DCP, policy or code, this DCP shall prevail in relation to development on the site.

Part A: Introductions

Section 3 – Notification of Applications

Part B: Connections

Part C: Place – Section 1 General Provisions

- C1.0 General Provisions
- C1.1 Site and Context Analysis
- C1.2 Demolition
- C1.3 Alterations and additions
- C1.4 Heritage Conservation Areas and Heritage Items
- 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, C1.6.3 Bicycle Parking Rates and Facilities
- C1.12 Landscaping
- C1.13 Open Space Design Within the Public Domain
- C1.14 Tree Management
- C1.15 Signs and Outdoor Advertising
- C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings
- C1.17 Minor Architectural Details
- C1.18 Laneways
- C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls
- C1.20 Foreshore Land
- C1.21 Green Roofs and Green Living Walls
- C3.14 Adaptable Housing

Part C: Place – Section 4 – Non-Residential Provisions

Part D: Energy

Part E: Water

Part F: Food

The application has been assessed against the above provisions of Leichhardt Local Environmental Plan 2013, which are replicated within the site specific DCP, SEPP No.55 Remediation of Land and SEPP No.65 - Design Quality of Residential Flat Development. There are no additional matters above which have not been satisfactorily addressed elsewhere in this report.

(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. The Development Application fully complies with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

Clause 92(1)(b) of the Regulation Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures is to be carried out in accordance with a construction/demolition management plan, which is to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

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

The assessment of the Development Application has concluded that the proposal will likely result in environmental impacts upon the locality due to high level of contamination, and deficient remediation information, which has failed to demonstrate that the site is suitable for proposed residential and commercial uses in accordance with the SEPP No.55 – Remediation of Land.

(c) The suitability of the site for the development

The site is partly zoned B4 Mixed Use and R3 Medium Density Residential. The site is not considered to be suitable to accommodate the proposed development, given the application has not satisfactorily demonstrated that the site can be satisfactorily remediated to accommodate the proposed residential and commercial development.

(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 30th January 2015 to 13th March 2015.

The notification of the application included:

- Letters sent to 1434 properties.
- Multiple yellow site notices placed on the site.
- Listing under the notification section on Council's website.
- Public notice in local newspaper

One hundred and five (105) submissions have been received in opposition to the application. In summary the objection letters fall into four categories as follows:

- A. Signatory to a pro-forma objection letter provided by Save Our Suburb Leichhardt – no additional/customised comment included.
- B. Signatory to a pro-forma objection letter provided by Save Our Suburb Leichhardt – additional/customised comment included.
- C. Personalised submission
- D. Submission prepared on behalf of Leichhardt Councillors

A. Pro-forma objection letter was received from 51 parties, which raised the following issues:

- The redevelopment of the former Kolotex site, which if approved, will have significant detrimental effect on my enjoyment of my property and Leichhardt as a whole.

- It does not provide sufficient non-residential uses on the ground floor that activates the public domain
- It does not maximise the benefits of communal open space for residents
- It does not respond to the character of the surrounding area
- It does not encourage a diverse population
- It does not provide communal open space for residents
- It does not provide for reasonable transition of scale to the existing development on the other side of the surrounding streets

Comment: The proposed development has been designed to respond to planning controls and densities anticipated under amendment 1 to LLEP 2013, which changed the zoning of the site to allow residential and commercial uses, and significantly increased the allowable FSR and height controls on the site. The resultant controls are not consistent with the existing character of West Leichhardt, but in any case the proposal is consistent with the planning controls, and is considered to provide sufficient non-residential uses, given the flooding constraints, and an area of communal open space for use by residents and encouraged a diverse populations through a mix of unit sizes. The proposed scale is consistent with the planning controls, which are considerably dissimilar to the surrounding residential area.

In addition:

- Site suitability due to contamination & hazardous waste – as per the JRPP's determination on the 23rd October 2014 in relation to the original DA for this development, they could not be satisfied that the site is suitable for residential development because of the possible high-level contamination. Little additional detail has been provided to Council with the revised DA which would change this view. This gives me great concern for my, and the communities, health and safety.

Comment: Council continues to raise issue with the level of contamination on the site, and proposed methods and documentation which has been submitted to demonstrate its remediation. Refer to SEPP 55 for further discussion of this issue.

- Traffic density, safety concerns & congestion during construction – the already congested and overloaded roads (including Parramatta Road) will not be able to effectively and safely sustain the predicted truck movements on and off the site and will result in my, and the communities, safety being seriously compromised.
- Increased traffic volume & safety concerns post construction – if completed, this development will generate greatly increased traffic volumes in the vicinity of the site. This will certainly compromise my, and the communities, safety and the effective function of the surrounding roads networks plus the flow-on parking issues.

Comment: Council staff have considered the traffic implications of the proposed development during construction and following its completion, and found it to be acceptable subject to the draft conditions of consent.

B & C. 35 parties were signatory to the Save Our Suburbs pro-forma objections letter which included additional customised comments. A further 18 parties provided individual submissions, all of which raised similar issues, which have been grouped together, as outlined below:

Traffic and Parking:

- Impact on transport and traffic
- Parking in the area is already at capacity
- Where are the large trucks going to park. Who will be monitoring the traffic control given there are many young people going to and from school along these narrow streets
- Traffic congestion and safety concerns during and after the development as streets are not catered for high volume traffic
- The developers have inadvertently failed to acknowledge the impact of the building on a narrow street in Leichhardt
- Will West St, Brighton St and Parramatta Road be choked with additional traffic
- Traffic congestion, shortage of parking
- Traffic implications
- To[sic] enough parking
- The streets surrounding this proposed development are already small and over-used. Parking is non-existent 7 days per weeks, and workers from surrounding business and residents/visitors compete daily. No room available for more cars.
- The south end of George Street is not much more than a lane way. Can it cope with 300 plus cars entering and leaving a driveway a day, let along 600 people who will be living there. Too much congestion is such a small area.
- The narrow streets in the area will not cope with additional people in the area
- It will add to the traffic in the local area, the area is already struggling to park on Alfred Street and around Marketplace
- It will increase traffic congestion
- There is already insufficient parking
- How are all the cars and garbage trucks going to get in and out of this development
- As a main user of Upward Street for my main access to our home we already struggle with traffic flow. With over 250+ additional properties, this will make this very small street dangerous for pedestrians, especially the school
- The change of plans for more commercial space will bring even more cars and parking issues
- Access into McAleer needs to be blocked from Upward Street as a minimum
- There is no apparent concern in the traffic and parking assessment of how the development will impact those who live along the boundaries of the development. The RMS guide to traffic generation mistakenly concludes that movements will decrease with the proposed development from movement under the current industrial use. Furthermore the Labelcraft site will be redeveloped in the near future adding 123 units. Similarly the old Price Tiles, Matt Blatt/Campbells Cash and Carry, and the western end of Lords Road sites, so the accumulative effect of these should be taken into consideration in any modelling undertaken.

- Parking problems along Flood Street will increase. The number of parking spaces is significantly less than what the residents would require, which will result in a battle for existing street parking spaces with existing residents.
- Parking – parking is already very difficult for most residents in Upward, George and surrounding streets. A development of this size is going to degrade this further. Again, coupled with the proposed Labelcraft development, the flow on effect through the surrounding areas will be enormous.
- The overloaded roads (including Parramatta Road) will not be able to effectively and safely sustain the truck movements on and off the site.
- If completed this development will generate greatly increased traffic volumes in the vicinity of this site, and will compromise the safety and effective function of the surrounding road networks. The Leichhardt LGA have on average 2.1 cars per dwelling, which results in additional 603 spaces and shortfall of 353 car spaces that will require on street parking, in the already at capacity surrounding streets.
- Parking is already hard to find in this area, not to mention the traffic congestion. How can this be approved when it will only increase the number of cars, traffic to the area and make the parking worse
- 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. The last thing residents need is large trucks entering the area in the early hours of the morning and then for the trucks to wait, maybe with their engines running till 7am 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 local area does not have the capacity to accommodate parking for the extra workers associated with this DA. We strongly object to the statement that “workers will use public transport rather than cars as the area is close to public transport”. Where in the plan is the 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 needs to be included in the DA.
- There are insufficient car spaces allocated to the development. There is currently very limited on street parking in the area surrounding the development. The residences in the vicinity of the development currently struggle to find parking - this will be disproportionately and unacceptably reduced further should such a development take place. We believe each apartment requires as a minimum 1 car space with larger apartments requiring more. There are not sufficient public transport solutions in the area the light rail is already full at peak hour and transport on Saturday and Sundays to sport in Sydney is not possible without a car. Our public transport simply doesn't go in the numerate directions needed to get to it. Visitor parking for residents on the apartment application also needs to be supplied within the carpark. Visitor parking to the proposed commercial tenancies needs to be available within the same or a separate carpark.

- The extra traffic that will result from the additional residences and commercial visitors will cause unacceptable congestion and safety issues for residents and visitors to the area:
 - o While Flood Street appears to be two lanes between Lords Road and Marion Street it is effectively one. It contains the bus stop, 2 pedestrian crossings/entry and exit Marketplace, taxi rank and Breast screen bus amongst others. The impact of the additional traffic from the proposed apartment will be compounded by the operations of Marketplace. It should be noted that before any such development takes place and additional foot and car traffic appears Flood Street is already currently affected by:
 - o Heavy traffic build-up especially in peak hours; early morning and following school finish 3pm to 7pm where daily traffic jams from Marion Street back past the Lords Street round about.
 - o Marketplace trolley tractor, delivery trucks to BWS, waste collection (garbage skips) outside BWS all attempting to operate in same space as usual traffic.
 - o Safety of children and elderly crossing pedestrian crossings when drivers attempt to enter and exit marketplace while being honked at by frustrated users of a congested Flood Street.
 - o Lords Road congestion which is closest to 3 preschools and a primary school where there is only one lane not in constant use by people and traffic entering and exiting Market Place, delivery and rubbish removal trucks. Such a dramatic increase in foot and car traffic is inappropriate and unsafe in such a busy, high density and populous area.
 - o Council have recently approved a 90 place child care centre on Flood Street that is almost finished but not yet operational. The additional traffic on Flood Street in the same area as the development has not been taken into account in the traffic congestion listed. Traffic will obviously increase when it opens and so the current over use of Flood street will reach maximum levels and queing long before any additional apartments and commercial tenancies are included.
 - o As such we believe this development will exacerbate existing traffic conditions on Floods Road and Lords Road and further result in unacceptable levels of traffic on nearby local streets. There will be increased traffic queuing and delays and "rat runs" will develop on nearby streets with disastrous results for the many pedestrian crossings at parks and schools that surround the area.
 - o An overall lack of a comprehensive strategic vision to resolve these issues and the traffic and parking problems that will arise from the proposed commercial development.
- Existing road networks will not be able to cope with increased road traffic volumes within the neighbourhood if the plan is implemented. There are already parking problems on George St. with the existing dwellings & even the though the report undertaken for the proposal expresses some concerns, even though only minor.

- A real concern exists about insufficient off-street parking capacity relating to the proposed development. The plans also call for parking on either side of George Street. The street is 8 metres wide kerb to kerb and is currently two way with parking restrictions in part. Such parking by the tower residents would not enable 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 large number of apartments planned will create extreme burdens on the surrounding streets: Upward; George; Lord; Flood, and emergence onto Parramatta Road. I believe the applicant has underestimated the number of vehicular movements, and also the number of people who will be using cars.
- There will be more traffic and parking problems on suburban streets where parking is already scarce.
- The reports do not adequately address the issue of overflow parking, as resident will park in the adjacent streets, particularly given there is not adequate space in Upward Street to cater for additional parking.
- Traffic impacts in Upward Street as residents will utilise McAleer and Lords to gain access to the site and Parramatta Road.

Comment: Council has assessed the traffic and parking reports submitted by the applicant, and referred the proposal to the Roads and Maritime Service for comment. The assessment by the RMS and Council staff has concluded that the proposal will result in acceptable impact subject to compliance with the recommended conditions of consent. Council has previously advised that the impacts to the potential road congestion concerns can be addressed by converting Treadgold Street South to one-way westbound and Treadgold Street North to one-way eastbound, including the installation of a roundabout at the Treadgold Street North/ Flood Street intersection. This option results in a significantly reduced loss of on street parking, approximately 3 (in Flood Street). Whilst it is noted that any loss of on street parking will adversely impact on the local residents, the safety benefits of providing a roundabout would outweigh this impact. It is also noted that this arrangement would require traffic control measures to be installed at all Treadgold Street intersections to ensure safe controlled movements. Note that this would still require approval by Council's Traffic Committee.

Parramatta Road Revitalisation and WestConnex

- West Connex not a suitable solution for traffic congestion
- I am hugely concerned with State Government concerns to over develop the Parramatta Road precinct. This and the West Connex plans.
- The NSW Government has not released proper business plan nor adequate arguments for what is proposed or environmental impact studies. The state government should release all pertinent documents and consult prior to proceeding with these developments.
- Impact study of all current and proposed developments in the Leichhardt west, Summer Hill and Lewisham areas. This should look into not only the local impacts around each development but also at each suburb and the inner west

region as a whole. Coupled with the proposed Labelcraft development D/2014/646 the residents around west Leichhardt are being hit with a double pronged stick.

Comment: This proposal is not in any way linked to the West Connex or Parramatta Road Revitalisation projects. This assessment has reviewed the cumulative impacts of development proposals in surrounding suburbs with regard to traffic implications.

Petersham Oval

- Impact on Petersham Oval and cricket community
- Need to preserve Petersham Park and our community
- Impact on Petersham Oval – The development should not impact the playing of crickets at the oval for future generations.

Comment: The proposal will not impact the viability of Petersham Park or playing of cricket in this location, given it is approximately 250m from the subject site. This proposal is not in any way linked to the West Connex project proposed by NSW Urban Growth.

Consultation:

- No consultation with the public on plans
- Very little public consultation on local effects and long terms effect on roads, infrastructure including public transport

Comment: There is no requirement for the applicant to consult with the community in relation to the current development proposal, however it is noted that the required consultation was undertaken during the rezoning process. Council has notified the both the current and previous development application for a period of six weeks to inform the community of the development proposal, and allow an opportunity to submit a response to the application, and a number of public meetings have been held.

General:

- Severe impact on existing residents and families
- The noise generated will have a detrimental impact on my health
- This application goes a long way to destroy the local community
- Will the historic and low rise nature of the area be lost
- The scale of the development will be ugly sterile scar on the landscape
- Overdevelopment out of character wit type of development already in this area
- I rely on Local Councils to act in the best interest of the local community
- The Taverners Hill precinct seems to be under attack. We are being bombarded with road and construction proposal
- Unsympathetic development which will increase crowding
- The proposed development will significantly impact the character of the Petersham and Leichhardt precinct
- I do not want the area to become a concrete jungle
- The development lacks respect for the heritage nature of Leichhardt
- Overdevelopment on the Upward Street side which is narrower in comparison to the George Street side, as we still only have a three metre setback vs a six metre

setback on George Street, particularly given the shadowing is more than other street

- How does a site this large and ugly fit into our suburb. Nowhere in Leichhardt is there building as excessive as this. Leichhardt is rich in Italian heritage and history that can clearly be seen along our character filled streets. This is not sympathetic to all to this character or the style within our suburb
- Significant reduction in amenity including traffic, increased patronage of near capacity public transport, open space is at a premium.
- Please consider the amenity of residents and users of the schools, parks and marketplace will be severely adversely affected by the increase in traffic, people and noise in the area. We suggest that the role of council is to protect the amenity of its residents.
- Leichhardt holds the dubious honour of being the most densely populated suburb in Sydney. I was not aware of that fact till now which makes me even more outraged that the Department should add at least another 700 people and 360 cars to Leichhardt.
- I support reasonable sustainable development however this is a gross overdevelopment of the site, which is not only excessive but out of character with the surrounding area.
- Upward Street has been treated poorly, relative to George Street, as it contains taller buildings, smaller setbacks, 22% more building frontage than George Street, narrower through site link building separation, higher ground level and blank street wall due to flooding, a flat vertical wall in Upward Street due to stepped planter beds – This results in the Upward Street properties being substantially more overshadowed. At 9am the shadow extend across more than 50% of the lot depth in Upward Street compared to less than 25% of the lot depth to George Street at 3pm.

Comment: The development proposal is subject to specific planning controls as outlined under amendment 1 to LLEP 2013 and associated site specific DCP, which were imposed upon Council through a rezoning process undertaken by the previous owner and Department of Planning. This resultant built form and density controls significantly increased the densities on this site, which are dissimilar to the current planning controls within the West Leichhardt neighbourhood. Although it is noted that the proposal is significantly taller and denser than the surrounding pattern of residential development, Council is unable to refuse the application on this basis, as it is generally compliant with the site specific planning controls. The applicant has proposed various changes to the site specific DCP which have been supported as they result in improved outcomes in terms of amenity impacts to existing and future residents.

Infrastructure:

- The current infrastructure is already stretched. Please consider that before development. Lewisham is saturated with current development.
- Schools are already overcrowded. I strongly object to a development of this size when the current infrastructure can't support it
- Will Petersham train station be able to handle the increased passengers – If the train station is expanded how long will this process take

- No provision for schools, hospitals and other infrastructure necessary to provide services for extra population
- Additional infrastructure has not yet been provided to accommodate additional residents – Schools, transport, medical facilities, fire and ambulance, policing, child care, parks and open spaces
- Services are at capacity - getting on a train or bus is impossible at peak times, and day care waiting lists are long
- It will increase pressure on local infrastructure including child care, hospitals, public roads, local transport
- Impact on local schools which are already overcrowding
- Where is the extra public transport
- Lack of effective infrastructure and transport, child care, schools – primary and high schools

Comment: Impacts on existing infrastructure were considered as part of the rezoning process, which included referrals to several government agencies. The Department of Planning concluded that the additional population could be accommodated without requiring any specific upgrades to local infrastructure. Increases in patronage for public transport, hospitals and education facilities are managed by NSW government departments, who will determine where increases in services and infrastructure are necessary.

Excavation

- Disturbance in foundations, cracking in walls etc (46 George Street)
- The structural safety of our building due to deep drilling (42 George Street)
- Vibrations during construction could have detrimental effect on my and surrounding residences

Comment: Each of the above properties are spatially separated from the subject site by considerable distances, and such do not warrant dilapidation reports in this instance.

Contamination and hazardous materials

- Who is going to check the level of contamination
- What are the proposed hours of work for the removal of these hazardous material
- May affect my health, especially due to inhalation
- Huge contamination of asbestos and battery acid on the site. I wonder of a legitimate remediation will be carried out. We have a number of childcare, schools and residents nearby.
- I am also concerned over the environmental concerns particularly the contamination of soil
- Contamination of the area
- It is clear that hazardous waste removal does not satisfy the requirement of either the SEPP 55 or the NSW EPA Guidelines. This is extremely worrying as the health and safety of my family should not be endangered so close to our home and one that should be controllable

- Concerns have been raised by Council in relation to the level of contamination on the site and that the levels could prove a serious risk to the health and safety of current and future residents of the site and surrounding area.
- Contamination – I have serious concerns with the level of contamination on the site which poses a risk to the health and safety of current and future residents of the site and surrounding area. This has increased with the knowledge that pollutants are seeping underground from the adjacent Labelcraft site into the Kolotex soil.
- Where is the management plan for the clearing of asbestos and other contaminants. How will the safe and effective remediation and clearing of the site be managed – the current DA does not adequately address this area
- Extremely worried that the required safety measures are not being employed to prevent the spread of asbestos fibres under the approved CDC, given no demolition sign has been located on the site. We request that Council inspect the premises to enforce the safe removal methods.
- We request information regarding the principal certifying authority for the demolition of the site.

Comment: The issue of contamination and hazardous material 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 the on-going management of contaminated groundwater needs to be further addressed..

If the application is supported, conditions would be imposed 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.

Demolition and construction impacts

- Level of noise and disruption from demolition works
- Dirt will flow onto my property as a result of building demolition, including the possibility of dirt and dust containing dangerous contamination material
- The safety related to demolishing the current buildings e.g. asbestos
- Noise, dirt, dust, traffic problems during the demolition and construction
- I am concerned about the additional noise that will be created by this development both during the construction phase and on-going operation from cars/ traffic, mechanical and general people noise.
- Impact from excavation machines, air conditioning units, treatment of car exhaust fumes have not be adequately addressed within the application.

Comment: A Complying Development Certificate (DCDP/2015/32) has been issued for demolition of the existing buildings. Conditions in relation to noise, creation of dust and safe removal of asbestos are all matters which are required to be complied with as part of the above approval, and are managed by the Principal Certifying Authority. There is no consideration of the traffic implications of the demolitions works under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Council has considered the traffic and noise implication

of the proposed construction works and recommended a number of draft conditions of consent to manage and control these aspects. The applicant has submitted a number of technical reports, which provide recommendations to address the acoustic and pollution impacts of the proposed air-conditioning units and exhaust systems, which can be incorporated into any development consent, should the application be approved.

Privacy and security:

- The proposed apartments will have direct views into our property
- The current planned apartments have clear views directly into my master bedroom, living room and backyard.
- The amendments made to the rejected DA have resulted in the living rooms being moved closer to the boundary of the development resulting in occupants increased ability to overlook surrounding properties, including the dwelling and private open space.
- Up to seven storey of residential units all with window overlooking my main bedroom, rear living room, backyard and garage raises concerns for the privacy of my family, significantly above the existing situation. The proposed privacy measures do not compensate for the fact that there will exist numerous windows and balconies that provide vantage points into our private family home.

Comment: Council requested that the applicant amend the design to locate living areas to the edge of the building to improve the available solar access in accordance with SEPP 65 and RFDC. The applicant has proposed a privacy solution which includes full height screens to windows and 1.1m solid and translucent glazing balustrade and planter boxes to the proposed balconies, which will prevent downward looking to residential dwellings on Upward and George Streets, and is therefore supported in this regard.

Height and Density:

- Height and density is in contravention to the amenity and the environment
- Too Big
- The height of the building and added congestion it will bring to the already congested area
- A 9 storey building is still too high no matter how many setbacks are in front of the building
- Height of buildings – a height limit between four (4) to six (6) storeys maximum should be enforced to improve overshadowing, privacy, traffic concerns and reduce the overall number of tenants. The height will set a dangerous precedent in the local area for the future. We know that there is a push to develop the Parramatta Road 'corridor' and surely this will occur to some extent, why not push for a more European 'low rise' style rather than creating aloof towers that lack real attachments to the community. We will end up with unfriendly darkened streetscapes and wind tunnels.
- Proposing an 8 Storey Building is an over-development of the site and will not complement the existing dwelling types that are typical of the neighbourhood and will create inappropriate "shadowing issues" over existing dwellings. This would obviously lead to a direct privacy issue for the residents with quite open back

areas with residents in the new development being able to view all of the rear of our premises.

- Obstruction of skyline – Building D represents a significant increase in the overall height of the building over the current Kolotex structure and will negatively impact as it will obstruct a significant proportion of the eastern skyline.
- The built form is more visually dominant in Upward Street due to 5 storey frontage and smaller setback. The ground level streetscape will be created primarily by the footpath, the landscaped setback and the basement wall, the footpath is only 2m wide with a solid wall of 4m in front block D, which is excessively high.

Comment: The proposed development complies with 16m and 32m height limit specified for the site within amendment 1 to Leichhardt LEP 2013. The proposed variations to the building storeys and layout as required by the site specific DCP are also supported as they result in an improved solar access outcome for surrounding residential properties and increased setbacks to George Street. The proposal complies with the 2.15:1 floor space ratio development standard, and as such results in a density that is consistent with the rezoning undertaken by the previous landowner and Department of Planning. The walling to Upward Street is a consequence of required flood management. The visual impact is proposed to be mitigated by planting.

Overshadowing:

- Homes in Upward Street will be greatly affected by the overshadowing of this development
- Too much overshadowing
- Significant loss of solar light due to overshadowing produced by the massive and bulk of all buildings along Upward Street as they are too close and high against what is already a narrow road
- The submitted shadow diagrams do not appear to accurately depict the existing and proposed shadows correctly.
- The solar access report shows substantial overshadowing to the rear of my property at 8am on June 21, preventing direct morning light. Building E will also reduce light before 8am causing a significant reduction in morning sunlight to main bedroom and downstairs living area.

Comment: The solar access diagrams submitted in support of the application demonstrate the shadows cast by existing buildings, proposed structures and DCP building footprint between 9am and 3pm on the winter solstice as required by the DCP. Although there will be an increase in shadows cast above those currently cast by the existing buildings, the proposed building layout will significantly reduce the resultant overshadowing in contrast with the DCP building footprint. Given that this will improve the available solar access to existing residential properties, the variation to the DCP has been supported.

Flood Risk

- My home is one of the properties that have been recognised as an at risk property to flooding. This development further increases flood risks to my property.

- Should the subject application be approved we request that the Council include suitable conditions to ensure that our clients property is not negatively impacted.

Comment: The applicant has proposed an appropriate flooding solution to accommodate the reconfiguration of a major Sydney Water asset, without increasing the flood risk to surrounding properties as discussed under the Leichhardt Local Environment Plan 2013 section of this report.

Density/Bulk and scale

- The applicant is providing less than 200sqm of employment generating spaces with the balance being residential. Although it is good to minimise the commercial space due to traffic implications, relying on the mixed use zone on the southern section of the site, which provides a height limit of 32m does not nothing for the community. Building A presents a significant bulk and scale facing George Street and should be reduced to three storeys. The current design is not in keeping with the surrounding existing residence, with a significant loss of privacy and solar access.
- Size of development – overall size in terms of number of tenants is too large. Again the traffic will constrict flow in and around the development and impinge on the overall road system in the inner west. This does not fit in with the existing surroundings.
- The applicant is providing less than 1000sqm of employment generating space.
- We believe the bulk and scale of the development is too large for the site and out of context with the commercial and residential buildings surrounding it.
- Plans proposed are an over-development of the sites and they are not in keeping with the existing neighbourhood character of the locality. The risk here is a dangerous precedence being set within the Leichhardt area that opens the door for further 'high-rise' developments.
- It is recommended that street front setback be increased in Upward Street by 3m to be 6m to reduce overshadowing and allow for genuine canopy tree planting, which would have little effect on the courtyard, but improve the pedestrian safety, amenity and allow for screening between the on-street traffic and proposed building with lower level planting.

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 up to 32m in total, with the DCP recommendations for specific building heights being open to flexibility in order to improve designated outcomes. No controls have been imposed as to the maximum number of dwelling units allowed. The proposal is also compliant with the required setback controls of the DCP. In relation to the level of non-residential floor space that has been proposed, the B4 Mixed Use zone did not specify a percentage of the total floor area that should be used for commercial purposes. This application has proposed 600sqm of retail/commercial floor space which is considered satisfactory given the significant flooding constraint that affects the site, and will provide an approximate mix which can meet the needs of the residents.

Green space:

- Presently Leichhardt west has limited green space. A further boost in resident numbers will stress current areas further. The recent completion of the light rail to Dulwich Hill missed the great opportunity to construct the greenway between Dulwich Hill and Leichhardt. This would have opened a corridor for recreation and non vehicular transport which would have served the need for many current and future residents. The current proposal doesn't provide any open spaces for the public but it will increase competition for recreation and public space access and usage.
- There is insufficient parkland and playgrounds associated with the development. The community of Leichhardt and indeed the Community of the apartment development do not have sufficient space to relax and play outside. There is one small park on Flood Street in Leichhardt and Lambert Park to cater to the current residents. An additional 288 residences in the area must surely require additional parkland. The developer should be required to have this in the development for the community of Leichhardt.
- There is a lack of open space in West Leichhardt and the addition of 287 apartments and 5 commercial tenancies is unsustainable and will hugely increase congestion.
- There is an inconsistency between the landscaped design plan and floor plans in relation to the planting within building setback along Upward Street. There is insufficient space within the 3m setback and 2m footpath to provide tall canopy trees. Furthermore the tree and plant species have not been nominated. It is impossible to tell what type of tree or understorey planting is proposed, which is contrary to SEPP 65.

Comment: The impacts of the additional population on local infrastructure including parks and reserves were considered at the rezoning stage by the Department of Planning, which was reflected in the FSR and height controls set for the site. The proposal does include significant communal open space in the middle of the site for use by the residents. The 3m setback along Upward Street can provide a suitable depth and width to support canopy trees (Snow-in-summer paperbarks as nominated on the landscaped plans) subject to compliance with the draft conditions of consent.

Waste Collection

- The commercial tenancies will require delivery trucks, rubbish removal et al and these have been inadequately accounted for in the design. Further there is insufficient parking for the commercial tenancies and these visitors must also be accounted for in the assessment on local traffic.

Comment: A separate waste collection area has been provided on the southern side of Building B which will service the residential units and commercial premises, which is satisfactory in this regard. Visitor parking is provided in the basement car park in accordance with the DCP requirements, which is satisfactory in this regard.

Commercial Space

- We object to the inclusion of commercial tenancies being built within the development as there are many empty shops/restaurants and workshops

throughout the entire Leichhardt Municipality including Norton Street, Marketplace, and the buildings surrounding it and on Marion Street.

Comment: The southern portion of the site is zoned B4 Mixed Use which permits retail and commercial uses within the zone. The applicant has provided a small proportion of the total floor space which has been supported and is consistent with the objectives of the control.

Sustainable Development

- Leichhardt Council has policies regarding sustainable development and we believe a development of this size should be required to be sustainable. The ground water should be captured and used throughout the development as happens in the city of Sydney.
- We believe the buildings should be required to have solar panelling on the roof tops so that they are essentially self-sufficient power users

Comment: The proposal is compliant with SEPP (BASIX) and NatHERS in terms of thermal comfort design and energy modelling, which provide the framework for sustainable development initiatives that apply to this development. Solar panels have also been incorporated to heat the centralised water system on all five buildings.

Public Footpath

- We understand the public footpath in Upward Street has been closed to pedestrians due to the erection of scaffolding and use of the footpath on George Street also hindered by building materials, which is unusual given the relatively high pedestrian traffic. It is normal practise for developers to retain pedestrian passages through the use of protective walkways with scaffolding and building material kept separately.

Comment: The eastern public footpath has been closed to accommodate scaffolding during the demolition of the existing building. Council assessed the request in a road works application, and considered the installation of scaffolding with pedestrian passages underneath unsafe due to the narrow width of the existing footpath and adjacent road. Furthermore the western public footpath along Upward Street will remain open to allow safe and convenient pedestrian access. Council staff do actively patrol the site, and will act on any non-compliances in terms of building materials being stored on public land.

Affordable Housing

- There is scant mention of affordable housing, ie no numbers of lower cost housing, and no estimation of the price to demonstrate this

Comment: The proposal has provided the required affordable housing units in accordance with the Voluntary Planning Agreement, which was entered into as part of the rezoning process with the Department of Planning. The affordable units will be dedicated to an affordable housing provider to be used in perpetuity for that purpose.

D. Submission prepared on behalf of Leichhardt Councillors

Contamination – Compliance with State Environmental Planning Policy No.55 – Remediation of Land

Comment: As discussed under SEPP 55, Council is not satisfied that the subject site can be appropriately remediated to accommodate the proposed residential and commercial uses. The submitted documentation has not satisfactorily demonstrated that compliance with SEPP 55 can be achieved, and requires further testing and delineation of the proposed remediation methods, and issue of a revised Section B Site Audit Statement.

Loss of employment generating lands – The rezoning process anticipated 125 direct jobs, and 1300sqm of ground employment generating floor area. The proposal is well below the expected employment generating numbers. There was expectation that the rezoning to B4 Mixed Use would facilitate a net community benefits in terms of creating additional employment opportunities.

Comment: It is considered that the level of non-residential floor area proposed in this application to be adequate given the significant flooding constraint that affects the site, which has limited the commercial floor area to the ground floor of Building B. The B4 Mixed Use zone did not mandate a minimum percentage of floor area that should be used for non-residential uses, although it is noted that the rezoning process anticipated higher levels. The proposed space will satisfactory service the local residential population and is therefore consistent with the objectives of the zone.

SEPP 65 Considerations:

- Context and Scale – There is no other development within the locality with a comparable scale. The scale of the surrounding properties is low scale residential and industrial. The proposed buildings do not have regard for the surrounding properties, which includes a minimum 4 storey height to George and Upward Streets, which does not provide a reasonable transition to surrounding development. A reduced height along the boundary edges would be more in keeping and reduce environmental impacts on the locality.

Comment: The proposed building layout is generally complaint with the site specific DCP in terms of building heights, storeys and setbacks, with the exception of Building A, which has been modified to improve the amenity impacts to the subject site and surrounding properties. The rezoning process mandated a floor space and height control which have permitted a significant increase in density, which is atypical of the surrounding development pattern. Along both George and Upward Streets, significant canopy trees have been provided to actively screen the buildings.

- Building Design (FSR) – The site has numerous constraints which impact on whether a design concept could achieve compliance with the controls, without detrimental impact to neighbouring properties. Typical higher FSR are supported where impacts can be mitigated through best practice urban design. The proposal is complaint with the FSR and maximum building height controls, rather than designing to protect the amenity of the surrounding area. A scheme with reduced FSR and bulk is likely to be more acceptable in the context of the local character. The proposed 5 buildings have inadequate setbacks and excessive wall length, and will result in overbearing impacts in terms of overshadowing, particularly on southern and western properties.

Comment: It is agreed that a scheme with a reduced FSR would most likely result in less impact upon the surrounding properties and locality, however the applicant has

choose to design their scheme to full extent of the permitted planning controls. As they are compliant with the above requirements, Council is unable to refuse the application in this regard.

- Non-compliance with RFDC in relation to solar access

Comment: It is agreed that the proposal does not comply with the minimum 70% requirement for three hours, as mandated under the RFDC. Council has examined a number of design solutions to improve the level of solar access to a number of units, which are discussed under the SEPP 65 and RFDC section of this report.

- Building Setback – Building E has a zero lot setback to the northern boundary which does not allow for any northern light to be provided to the units. A 6m setback is recommended to provide improved sunlight and ventilation to the northern façade.

Comment: Building E has proposed a zero setback to the northern boundary, which complies with the site specific DCP building layout. It is noted that a four storey building will be located immediately to the north of Building E on the Labelcraft site which will limit any potential improvements in solar access that could be provided to the northern façade.

- Private Open Space – Not all balconies achieve the minimum 2m balcony depths.

Comment: It has been identified a number of balconies that do not comply with the minimum 2m depth requirement. Conditions have been provided requiring the identified balconies to comply with the 2m requirement, which will include balconies being cantilevered into the building setback as permitted by the DCP.

Failure to achieve objectives of zone – The proposal is not medium density and does not include adequate commercial and retail opportunities.

Comment: As discussed under section 4 of this report, the proposal is considered to achieve the objectives of the R3 Medium Density Residential and B4 Mixed Use zones, as mandated for this site in Amendment 1 to Leichhardt Local Environmental Plan 2013. The proposal is consistent with the FSR and building height development standard included as part of the rezoning process. Furthermore the level of non-residential floor area is considered acceptable and will appropriately achieve the objectives of the Mixed Use zone. It is also noted that no minimum requirement was mandated under any planning controls incorporated as part of Amendment 1.

The George & Upwards Streets Leichhardt DCP 2014, is a guiding document which provide site specific controls for building layout, heights, setback, separation, landscaped area and access. The DCP is a guide and it is therefore appropriate to apply a merits based assessment. Any merits based assessment would fail SEPP 65 in terms of height, scale and lack of content and inability to achieve minimum solar access requirements of RFDC. In addition the proposal does not satisfy the aims of the DCP. The proposal will result in an unacceptable amenity impact and is considered an overdevelopment (bulk and scale).

Comment: The proposal is generally compliant with the DCP requirements, however several variations have been proposed to the design, including increased setbacks and change to the overall building layout, which have been found to be justified, as they improve the resultant amenity impacts in comparison to those created by the DCP provisions. It is considered the DCP and SEPP 65 in this assessment, and

found the proposal to be acceptable in this regard subject to the draft conditions of consent.

Traffic and parking - concerns remain regarding the impact of the development on traffic and parking in the locality, based on anecdotal evidence from the community. It is considered that the development will increase pressure for on-street parking, reducing amenity for existing surrounding residents and causing further congestion on the narrow, surrounding streets.

Comment: an assessment of the resultant traffic and parking impacts of the development has been carried out, including the cumulative impacts of the adjoining Labelcraft site, and recent development within Marrickville and Ashfield Councils which are in close proximity to Parramatta Road. It is considered that any resultant impacts are appropriate or could be addressed by the draft conditions of consent.

(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 proposal is not contrary to the public interest.

5. SECTION 94 CONTRIBUTIONS

Section 94 contributions are payable for the proposal.

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

Of the remaining 280 units, any dwellings in excess of 53sqm would exceed the \$20,000 cap imposed by the State Government. Council has identified 11 units that are less than 53sqm in area (not including affordable units). These 11 units attract a section 94 levy as outlined in the following table:

Contribution Plan	Contribution
Community Facilities	\$22,462.00
Open Space	\$146,927.00
Local Area Traffic Management	\$1,538.77
Bicycle	\$150.17
Total	\$171,077.94

The remaining 269 units attract the following section 94 levy, as outlined in the below table:

Contribution Plan	Capped Contribution
Community Facilities	\$707,608.80
Open Space	\$4,630,056.02
Local Area Traffic Management	\$37,657.78
Bicycle	\$4,677.40
Total	\$5,380,000.00

The 600 square metres of proposed commercial space also attracts a section 94 levy, however a credit is applied to the existing industrial floor space, which offsets all S94 levies in this regard.

The total section 94 contribution payable for this development is **\$5,551,077.90**.

6. INTERNAL REFERRALS

The Development Application was referred to the following Council Officers:

Building

General Building Access requirements:

- Table D3.1 Commercial space requires an accessway to the building and within all areas normally used by the occupants of the building at the main point/s of entry, carparking area and sanitary compartments in accordance with Part D3 of the Building Code of Australia and AS 1428.1.
- 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. Further, where a passenger lift is installed, access to the entrance doorway of each sole-occupancy unit and common areas/rooms served by the lift.

Comment: An Access Report has been provided which states compliance with all relevant Australian Standards, BCA and legislation can be readily achieved.

- The Disability (Access to Premises – Buildings) Standards 2010 [commonly known as Access to Premises Code] is applicable to this development.

Comment: 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.

Comment: Numerous non-compliances have been noted in the BCA Report and it has been advised alternative solutions will be proposed to address these matters.

The applicant has a number of ways to comply with the performance provisions of the BCA by compliance with either the *deem-to-satisfy* provisions; an *alternative solution*; or a combination of both.

Property Services

Rights of way in favour of Leichhardt Council are to be created over the proposed public walkway and public cycleway. The terms of the right of way are first to be approved by Council's Manager Property and Commercial Services. The application is supported subject to the draft conditions of consent.

Engineers

Flooding

The subject site is located within a sub-catchment of Hawthorne Canal and is significantly affected by flooding. There is no overland flowpath through the site and consequently the current buildings cause flood waters to be dammed upstream of the site, impacting on other properties. The future development of the site will

significantly increase the number of people occupying this area which is subject to high hazard flooding, both living within and travelling to and from the site.

The development has the potential to substantially increase the impact and cost of flooding to the community, with the associated increase in risk of property damage and loss of life. In this regard, the development must be designed to meet the objectives of the NSW Government Flood Prone Land Policy.

In this regard, reference is made to the Flood Risk Management Report prepared by Wood and Grieve Engineers and dated 10 December 2014. The study provides details of existing flood characteristics and provides modelling of the potential flood behaviour resulting from the proposed flood mitigation options for the completed development. The report indicates that flood inundation will occur to the ground floor units and central landscape areas in a PMF event. Concern is raised that the proposed evacuation route for ground floor tenancies is to uphill lands in George Street via the central landscape area, which would be inundated in a PMF event. The evacuation plan must be amended to ensure that residents are not required to cross flood waters to reach safe refuge.

Stormwater

Reference is made to the Integrate Water Cycle Management Plan (IWCMP) prepared by Wood & Grieve Engineers dated 10 December 2014 and the subsequent comments dated 31 March 2015. The IWCMP proposes a combination system which drains roof water to a rainwater tank with overflow directed to an on site detention tank, via a gross pollutant trap and tertiary filtration system to meet Council's Water Management requirements outlined in Section E1.2 of DCP2013.

No further objections are raised to the proposed stormwater design, subject to the rainwater reuse system be amended to service the non-potable uses within the commercial areas of the development (ie: toilets and irrigation).

Traffic - Proposed development

Reference is made to the Transport Impact Assessment (TIA) report prepared by GTA Consultants dated 12 December 2014 and the subsequent response dated 30 March dated 30 March 2015.

With regard to intersection improvement works, the report recommends that only linemarking and street sign changes should be pursued to improve traffic flows within George Street, Treadgold Street, and Flood Street. The report also recommends that the existing parking spaces within Treadgold Street South should be removed to allow for vehicles to pass within Treadgold Street.

Council is concerned that this proposal does not address the existing constraints to manoeuvrability and sight lines at Treadgold Street North. In this regard, the existing road width at the Flood Street intersection is limited, and restricts easy vehicle movements. In addition the existing buildings at the intersection restrict available sightlines from Flood Street to Treadgold Street North

To reduce the potential for collisions, Council requires that Treadgold Street North and Treadgold Street South are made into a clockwise one-way pair, ie entry from Flood Street is limited to Treadgold Street South and exit is limited to Treadgold Street North. A roundabout should be provided at the intersection of Treadgold Street North and Flood Street, to improve the management of traffic flows at each

intersection by reducing the approach speed and improving site lines at the intersection.

Basement Carpark

A number of concerns remain in relation to the design of the proposed basement carpark and associated vehicular access, which relies on a single access to service all proposed spaces within the carpark.

The concerns relate principally to the design and location of the access driveway and the potential for traffic conflicts at the top and the base of the driveway. Further general concerns are raised regarding the number of parking spaces provided, vehicle circulation, the provision service vehicles, and the allocation of resident, visitor, and accessible parking spaces.

In this regard, the three intersections in the parking aisle at the base of the access ramp must be designed so that both the approach roadways and the intersection area are wide enough to accommodate turning vehicles and there is adequate intersection sight distance. Each of these three intersections must be designed to allow a B85 vehicle to pass a B99 vehicle including the swept path clearances in accordance with Clause 2.5.2 of AS/NZS 2890.1-2004.

Reference is made to the swept path diagrams submitted in support of the proposed tandem parking spaces in the south west corner of the site (Parking Space Nos 59 – 64). Parking Spaces 58, 61 and 63. The swept paths indicate that vehicles will require four or more movements to exit from the each parking space. The swept paths also show that the full width of the traffic aisle is required for turning manoeuvres, providing no space for storing the first tandem vehicle while the second vehicle exits the parking space. Consequently the tandem spaces are not supported in their current form and must be reduced to single spaces only.

Waste Services

Reference is made to the Waste Management Plan prepared by Elephant's Foot dated December 2014 and the additional amendments provided in the letter dated 30 March 2015.

Waste Holding Room

As previously advised, the waste holding room should be designed to be level with a roller door opening to provide direct and convenient access between the holding room and the garbage truck.

In this regard the proposed hoist and ramp solution is not supported as it does not provide for easily accessible, at-grade collection.

The waste holding room must be higher than the Flood Planning Level at the location of the service lift, to prevent the entry of flood waters into the basement. However, if access to the bin store was provided at the southern end of the garbage store, a gentle transition could be provided between the finished floor level of the service lift (RL 12.00m) and the Loading Dock (RL 11.15m) to provide for direct at grade collection adjacent to the southern end of the garbage store.

Conditions are provided below including amendments to the garbage store to address the above issues.

Residential

With regard to the waste generated by the residential component of the development, the plan proposes seventy-four (74) 240 litre bins for compacted garbage waste and seventy-four (74) 240 litre bins for recycling – split between 40 paper/cardboard recycling bins and 32 co-mingled recycling bins – as well as twelve (12) 240 litre bins for organic waste, collected on a weekly schedule.

The plan indicates that bins for recycling are to be provided at each level. This would require a total of 102 bins, split evenly between paper and co-mingled, to be distributed through the building. As this is a greater number of bins than the total number proposed in the report, further details must be provided of how recycling is to be safely and conveniently transferred to the bins within the basement store. Alternatively the bin store must be enlarged to accommodate all 102 recycling bins.

Conditions are provided below to achieve these requirements.

Commercial

The proposal includes 600m² of general purpose commercial area. At this stage there is no indicative tenancy plan from to accurately determine the likely waste generation in accordance with Section 2.4 of Appendix D of the DCP2013.

The Waste Management Report prepared by Elephants Foot assumes a general commercial waste generation rate of 80L / day / 100m² floor space for general waste and a rate of 20L / day / 100m² floor space for recycling.

Consequently the waste management report proposes a total of 3 1100L bins for waste and 1 660L for recycling, to be collected weekly by a commercial contractor.

These volumes are considered adequate, however it is to be noted that if a high waste generation usage is to be proposed at a future date, such as a childcare centre or restaurant/café, additional mid-week collections will be required.

Landscape Officer

There are currently 12 Bangalow Palms located on the George Street frontage of varying stages of growth/development. Whilst they provide landscape amenity within the immediate area, their retention should not be viewed as a constraint on the development and that their removal and replacement with large canopy trees would better achieve the outcomes of Council's *Tree Management Controls* therefore, removal is supported.

With regard to the submitted landscape plan, the proposed locations of deep soil planting and planter style boxes are considered to be too small and not able to sustain large mature canopy tree in the long term. Furthermore, the proposed planting plan does not provide for enough variety of canopy trees. It is recommended that the applicant incorporate the use of tree pit technology such as *CityGreen® Strata Cell® (Series 30)* systems or a similar product to ensure the long term viability of canopy trees. The application can be supported subject to draft conditions of consent.

Comment: The applicant submitted additional information to clarify the level of deep soil and submitted a planting matrix that will provide for mature canopy trees to be provided along the edge of the development site.

Environmental Officer

Acoustics – an acoustic compliance report is required prior to a construction certificate being issued for the development for plant and equipment and aircraft noise intrusion. Standard noise conditions have been included and should be incorporated into any draft conditions of consent. Refer to (a)(i) for discussion on contamination and remediation of the site under SEPP No.55 – Remediation of Land.

7. EXTERNAL REFERRALS

The Development Application was referred to Sydney Water, Ausgrid, NSW Office of Water and Roads and Maritime Services for comment.

Ausgrid

Ausgrid has identified the following assets to be affected by the development works:

- Existing substation adjacent to the site - Developer is to ensure the development meets the requirements of Ausgrid's Network Standards in relation to fire and blast segregation.

Ausgrid's Network Standards are available in our web site <http://www.ausgrid.com.au/> under the caption Network Standards.

The developer is required to make a formal submission to Ausgrid by means of a duly completed Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).

In general, works to be considered by Ausgrid include, but are not limited to, the following:

- Changes in electrical load requirements
- Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.)
- Works affecting Ausgrid's easements, leases and/ or right of ways
- Changing the gradients of any roads or paths
- Changing the level of roads or foot paths
- Widening or narrowing of roads
- Closing roads or laneways to vehicles
- In all cases Ausgrid is to have 24 hour access to all its assets

The developer is to ensure that the proposed works do not compromise Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

Comment: The above requirements have been incorporated into the draft conditions of consent.

Roads and Maritime Services

The RMS has reviewed the subject application and provided the following comments to Council for its consideration and inclusion as conditions of consent:

1. The swept path of the longest vehicle (to service the site) entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to

Council for approval, which shows that the proposed development complies with this requirement.

2. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1 – 2004.
3. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

Comment: The above requirements have been incorporated into the draft conditions of consent.

Sydney Water

Water:

- To serve the proposed development the developer is required to link the two 150mm drinking water mains located in George Street by upsizing the existing 100mm mains between them
- All works are to be constructed in accordance with the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).

Wastewater:

- The wastewater main available for connection is the 225mm main traversing the property constructed under SO 42717
- The proposed development site is traversed by 225mm & 150mm wastewater mains.
- Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets. Refer to your WSC for details of requirements.

Stormwater- Building Adjacent to Stormwater Channel:

- No buildings or permanent structures are allowed over the stormwater asset or within 1 m of the outside edge of the asset. Permanent structures include, but are not limited to, roof eaves, balconies / overhangs, on-site detention systems, stormwater pits and pipes etc
- Sydney Water notes the proposed stormwater deviation (Engineering Design Brief dated 18 June 2014) which seeks to meet Sydney Water's building adjacent to stormwater assets requirements. Sydney Water is willing to liaise with the proponent to work towards the proposed concept plan subject to the following key concepts be incorporated in any future proposal:
 - o 90 degree bends are not permitted. A minimum 6 metre internal radius is to be provided for any changes in direction
 - o The capacity of the new pipe is to be minimum 20 year ARI.
- Sydney Water's agreement to the stormwater deviation is subject to the completion of sufficient investigations to confirm its feasibility. This includes locating utility services along McAleer and Upward Streets.

Overland Flow Path:

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- Sydney Water's clearance requirements also provide for an overland flow path over the stormwater asset. The proposed new path of the storm water deviation does not provide the required overland flow path. Specifically, the current building configuration in the DA precludes the provision of an overland flow path
- The proponent will need to complete a detailed flood study to identify and confirm the location and width of the overland flow path across the site. The flow path will need to meet contemporary standards in terms of safety (depth and velocity product) unless specified otherwise by council.

Water Quality Improvement Device/ On Site Detention:

- The development is required to meet stormwater quality and on-site detention targets. Sydney Water's requirements will prevail in the absence of any such targets being specified by council.

Comment: The above requirements have been incorporated into the draft conditions of consent.

NSW Office of Water (NOW)

NOW requested additional information from the applicant as outlined below:

The volume of groundwater expected to be taken from the excavation needs to be quantified by the applicant. The determination of groundwater take volumes is to be separately detailed for:

1. *the construction phase; and*
2. *the occupational phase (i.e. the predicted ongoing pumping for the life of the building) of the development project.*

The methodology used to calculate the groundwater take volumes must be clearly demonstrated and include all potential losses arising as a result of the activity (for example moisture content of removed soil, predicted seepage inflows, etc).

The applicant subsequently submitted additional information in the form of a groundwater inflow assessment prepared Coffey Geotechnics Pty Ltd, which forwarded to NOW for review. The following response was received as outlined below:

Based on the information provided, NOW understands that the project proposal includes the construction of a five (5), four (4) to nine (9) storey unit blocks, with ground floor retail, over a single level of basement car park. Construction of the development will involve excavations to depths of generally 4m below existing ground levels. Preliminary assessment indicates the groundwater table will be intercepted as a result of the excavation works.

On the basis of the current information including the supplementary advice prepared by Coffey Geotechnics (10 March 2015), as provided by council, the NSW Office of Water considers that the volume of groundwater to be extracted (1.9 ML/yr) and the duration of dewatering are both likely to not be significant in terms of resource management. Therefore, an authorisation for the extraction of groundwater for the proposed activity is not considered to be warranted at this time, and consequently no general terms of approval are provided.

However it is noted that the basement infrastructure as proposed in the Coffey Groundwater Inflow Assessment report, that inflows will be managed by collection and occasional pumping from a sump within drained basement design. NOW does

not endorse this suggestion, and believes it is more appropriate to effectively seal (or tank) the basement to prevent ongoing groundwater ingress after construction.

Should the proposed excavation into the groundwater table result in the requirement for a significantly greater predicted inflow and subsequent dewatering volume, the NSW Office of Water may require an authorisation to be obtained for the activity.

Comment: The NSW Office of Water did not require any General Terms of Approval in response to the additional information submitted by the applicant. A note will be attached the development consent advising that an activity approval may be required from the NSW Office of Water, should the dewatering volume be changed.

8. CONCLUSION

The Development Application has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal does satisfy the objectives of State Environmental Planning Policy N0.55 – Remediation of Land and is therefore not suitable to accommodate the proposed development. Accordingly the application is recommended for refusal, in accordance with the reasons listed below.

9. RECOMMENDATION

That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, refuse Development Application No: D/2014/713 for 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 at 22 George Street, Leichhardt subject to the following reasons.

1. The proposal is inconsistent with Clause 7 of State Environmental Planning Policy No.55 – Remediation of Land, as the application has not satisfactorily demonstrated that the site can be made suitable for the proposed residential and commercial uses, pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The proposal is likely to result in detrimental built, environmental and social impacts in the locality, pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979.
3. The site is not considered to be suitable to accommodate the proposed development, given the application has not satisfactorily demonstrated that the site can be satisfactorily remediated to accommodate the proposed residential and commercial development., pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979.
4. The proposal is not considered to be in the public interest, pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979, as the proposed remediation strategy has not provided an adequate level of certainty or clear time frames.

ATTACHMENT A – DRAFT CONDITIONS OF CONSENT

ATTACHMENT B – PLANS OF PROPOSAL