

REZONING REVIEW – Briefing Report

Date of referral	23 March 2020	
Department ref. no	RR_2020_IWEST_001_00	
LGA	Inner West	
LEP to be amended	Leichhardt Local Environmental Plan 2013	
Address	245 Marion Street, Leichhardt	
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment	<input type="checkbox"/> Council failed to indicate support for the proposal within 90 days, or failed to submit the proposal after indicating its support
Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> Not required Comment: no donations or gifts to disclose	

1. SUMMARY OF THE PROPOSAL

1.1 Introduction

The rezoning review relates to a planning proposal for 245 Marion Street, Leichhardt to amend Leichhardt Local Environmental Plan (LEP) 2013. It seeks to introduce an 'Additional Local Provision' to Part 6 of the LEP that allows for the incorporation of residential accommodation in the IN2 Light Industrial zone as part of a mixed-use development at the site including:

- an increase to the maximum permissible floor space ratio (FSR) from 1:1 to a maximum of 3:1, of which a minimum of 1:1 will be restricted to employment generating floor space; and
- introduce a maximum height control of 30 metres for the site.

A full explanation of the proposed controls is provided in section 1.5 below.

The rezoning review application was submitted by Ethos Urban on behalf of P&C Consulting as Inner West Council notified the proponent on 19 December 2019 that the request to prepare a planning proposal was not supported.

The planning proposal would facilitate a mixed use development of approximately 8 storeys, accommodating 5,200sqm of employment generating uses (including at least 3,200sqm of light industrial/urban services) within the basement, ground and podium levels and 97 residential apartments above.



Figure A: Concept design from Marion Street facing north-west (Source: Figgis Jefferson Tapa)



Figure B: Concept East Elevation (Source: Figgis Jefferson Tapa)

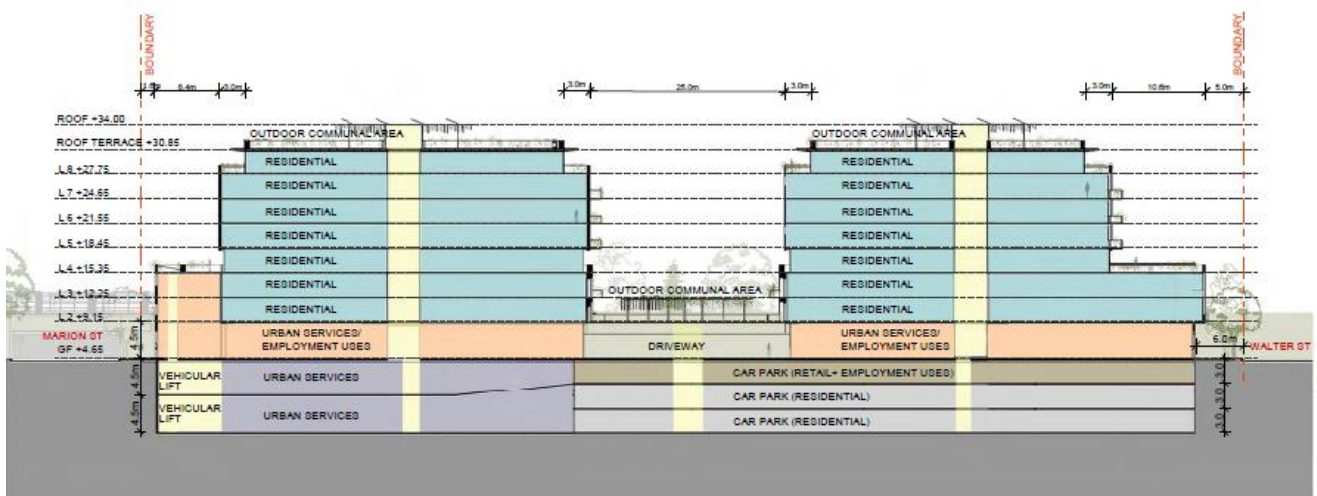


Figure C: Concept long section (Source Figgis Jefferson Tapa)

1.2 Locality and context

The site is located at 245 Marion Street, Leichhardt (see **Figure D** and **Attachment A**).

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1.3 Site description

The site (**Figure D** and **Attachment B**) is legally described as Lot 1 DP507525 and has a total area of approximately 5,210sqm. It is broadly rectangular in shape and has frontages of 40m along Marion Street to the south and 35m along Walter Street to the north.

The site contains a single storey industrial building of masonry construction which extends from Marion Street to Walter Street. It is currently used for a motor vehicle repair business. with vehicle access provided to both street frontages.



Figure F – view of site from Marion Street facing east (Source: Google Streetview)

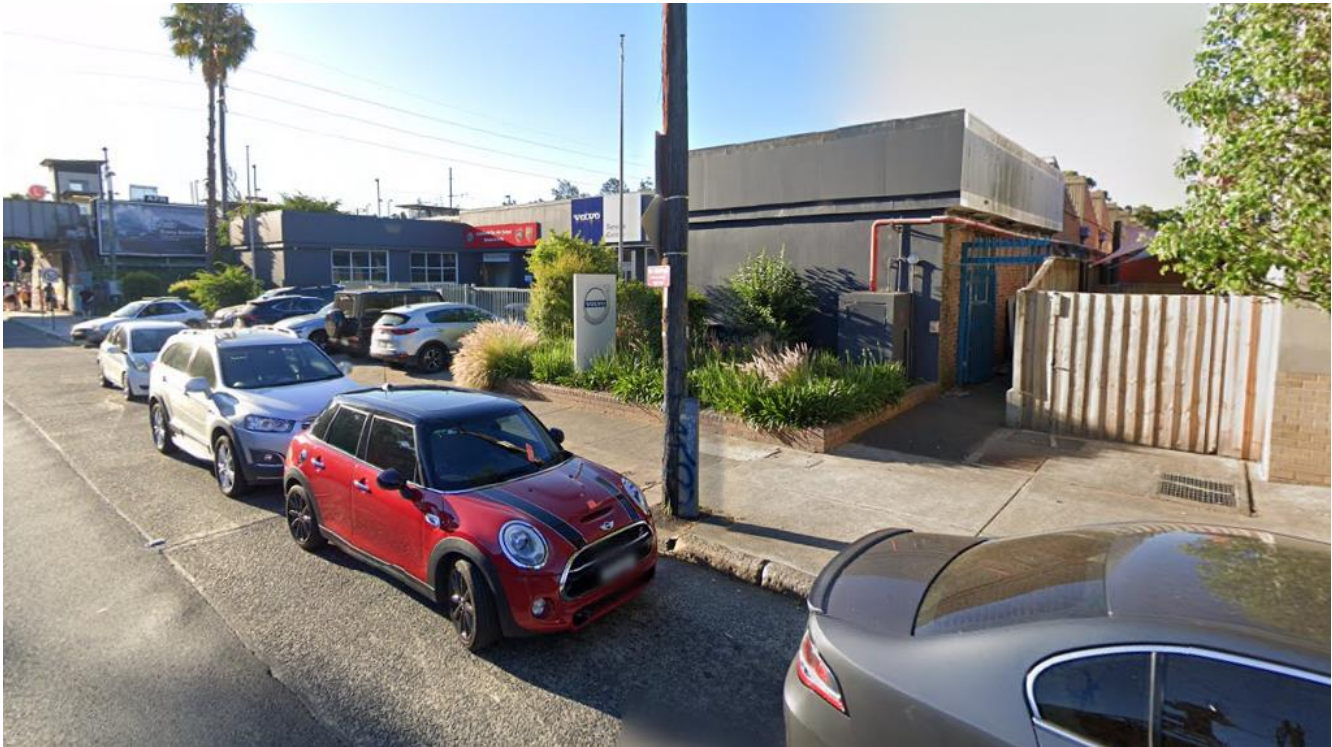


Figure G – view of site from Marion Street facing west (Source: Google Streetview)



Figure H – view of rear of site from Walter Street facing south (Source: Google Streetview)

1.4 Current planning provisions

The site is subject to the following planning controls under the Leichhardt LEP 2013:

- IN2 Light Industrial zone; and
- Maximum FSR of 1:1.

No building height control currently applies to the site (See **Attachment C** for the height of buildings map).

Clause 6.9 Business and Office Premises in Zone IN2 pertains to the site by restricting any business or office premises to a 'creative purpose', such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes.

The site is not a heritage item and is not located within a heritage conservation area. However, directly to the south of the site is Lambert Park which is identified as a local heritage item and the Haberfield Heritage Conservation Area is located west of the site across the light rail corridor.

The site is not subject to the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS), however it does apply to land south of Lambert Park.

Attachment C contains the relevant current planning maps and Clause 6.9.

1.5 Proposed planning provisions

The planning proposal seeks to introduce a site-specific clause under Part 6 Additional Local Provisions to:

- Permit residential accommodation as part of a mixed-use development which provides a minimum of 5,200sqm of other compatible non-residential uses, and of those uses:
 - a minimum of 3,200sqm must comprise uses which are presently permissible in Zone IN2;

- a maximum of 2,000sqm may be used as a centre-based childcare centre or health service facility; and
- a maximum of 250sqm may be used as restaurants or cafes, or shops.
- Permit a maximum floor space ratio of 3:1 for a mixed-use development;
- Introduce a maximum building height of 30m for a mixed use development; and
- No longer apply Clause 6.9 to the site.

The proposed site-specific clause identifies the site on an amended Key Sites Map.

The proposed Key Sites Map and proposed additional local provision are located in **Attachment D**.

Background

The proponent, P&C Consulting Pty Ltd, submitted the planning proposal to Council on 18 September 2019.

The planning proposal was referred to the Inner West Local Planning Panel (LPP) on 26 November 2019. The LPP recommended that Council not support the planning proposal (See the minutes in **Attachment F2**).

Council officers recommended to Council at its meeting of 10 December 2019 that the planning proposal not be supported (**Attachment F2**). Council resolved at that meeting not to support the planning proposal for the reasons outlined in the Council officers' report (**Attachment F3**). Council formally notified the proponent of its decision not to support the planning proposal on 19 December 2019.

On 24 January 2020, the proponent contacted the Department to request an extension to the usual 42 day deadline to submit a rezoning review request. The Department considered a two week extension to the timeframe reasonable given the period fell over the Christmas and New Year holidays, as per the *Guide to Preparing Local Environmental Plans* (the Guide).

The proponent submitted the rezoning review on 13 February 2020 in accordance with the Department's advice (**Attachment E1-6**). The Department then liaised with the proponent to ensure the documentation adheres to the Guide. The documentation was considered adequate to proceed on 5 March 2020, which is considered the date received in the Department's acknowledgement letters.

2. INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than five years old?
No.

2.1 Strategic merit test

Consistency with the relevant regional plan outside the Greater Sydney region, district plan within the Greater Sydney region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning and Public Spaces or the Department of Planning, Industry and Environment have announced that such a plan will be updated before being able to be relied on.

Eastern City District Plan

The rezoning review application (**Attachment E1**) states the planning proposal is consistent with the priorities of the plan because:

- It protects and enhances existing light industrial/urban services employment opportunities at the site;

- It will support the effective utilisation of existing infrastructure by locating commercial and residential development in proximity to an existing light rail station, bus services and a dedicated cycleway;
- It allows for the renewal of the site in a manner consistent with adjoining residential land whilst protecting the important urban services use currently operating at the site;
- It ensures potential land use conflicts between the existing light industrial and future residential uses are adequately addressed;
- It improves the permeability of the neighbourhood and improves access to the light rail station for surrounding residents by the creation of a new through-site link;
- It will facilitate the delivery of new affordable housing for essential workers;
- The planning proposal will allow for the creation of a greater level of employment on the subject site whilst protecting the existing urban services (automotive repair facility);
- The planning proposal will facilitate the delivery of approximately 97 new dwellings that will support housing diversity within the area, whilst facilitating the achievement of the 0-5 year targets set for the Inner West LGA and longer term targets for the Eastern City District; and
- The Planning Proposal will deliver more housing within 30-minutes from surrounding jobs, services and existing infrastructure. Accordingly, it will provide an outcome that would be consistent with the approach to locate housing in highly accessible locations in existing centres.

The rezoning review cover letter directs the reader to the original planning proposal (**Attachment E3**) document for a detailed assessment of its consistency with the Eastern City District Plan. A detailed response to Council's assessment of the proposal's consistency with the district plan is located on page 4 of the rezoning review cover letter (**Attachment E1**).

Consistency with a relevant local strategy that has been endorsed by the Department.

There is no local strategy endorsed by the Department that applies to the site. However, the rezoning review application states that the proposal gives effect to the following local strategies:

- Our Inner West 2036 Strategic Plan;
- Leichhardt Industrial Lands Study; and
- Leichhardt Employment Lands Study.

The rezoning review cover letter notes that a detailed assessment is contained in Section 7.2 of the planning proposal (**Attachment E3**).

Responding to a change in circumstances, such as investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

The rezoning review application states that the Leichhardt LEP 2013 was gazetted in January 2014 and therefore the controls that are proposed to be modified are greater than 5 years old.

It states that since this time the Inner West Light Rail network, which runs directly adjacent the site from Central Station to Dulwich Hill, opened.

2.2 Site-specific merit test

The natural environment (including known significant environmental values, resources or hazards).

The rezoning review application states that there are no known significant environmental values, resources or hazards which would preclude development facilitated by the Planning Proposal. It notes that:

- The site is located within a highly modified urban environment and does not contain critical habitat or threatened species, populations or ecological communities, or their habitats.
- The Water Management and Flood Risk Assessment prepared by GEC Consulting Pty Ltd and attached to the Planning Proposal confirms the site is capable of being developed for the proposed uses and that there will be no adverse flooding effects in downstream or upstream catchments.
- The Phase 1 Environmental Site Investigation prepared by Douglas Partners Australia and attached to the Planning Proposal concludes that the known soil contamination at the site can be remediated using standard technologies/practices to a standard suitable for a residential land use with garden/accessible soil.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.

The rezoning review application states that the planning proposal will not unreasonably impact any existing uses, approved uses or likely future uses of land in the vicinity. It notes:

- The proposed site-specific controls protect and enhance the existing light industrial/urban services employment opportunities of the site.
- The future intended uses for the site have been demonstrated to be compatible subject to detailed design and there are numerous examples of such development occurring in Sydney and around the world.
- Future development can be designed to avoid any significant impacts on the surrounding seniors living and residential developments, particularly in relation to shadowing, visual privacy and acoustic privacy. A detailed design report has been submitted with the Planning Proposal and a response to Council's design comments is included at **Attachment E6**.
- Future development is in context with other development along the light rail corridor and is appropriate from an urban design perspective.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The rezoning review application states that the site can be readily serviced by utilities and infrastructure to support the proposed use and density of the proposal. It states that the planning proposal provides the opportunity to maximise the use and benefits of scarce land adjacent public transport infrastructure and services, of which Government has the responsibility to optimise.

3. COUNCIL VIEWS

The Department advised Council of the rezoning review request on 24 March 2020. Council responded with a submission on 20 April 2020 (**Attachment F1-3**).

Council confirmed in its submission that the planning proposal submitted for rezoning review is the same proposal that was considered by Council.

Council's submission (in **Attachment F1**) asserts that Council resolved not to support the planning proposal because:

- a) It fails the Strategic and Site Specific Merit Test of the Guidelines for preparing Planning Proposals pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979*;

- b) It is inconsistent with the Greater Sydney Region Plan 2018 and the Eastern City District Plan 2018 in relation to retention of all industrial lands;
- c) Fails to give effect to Council's draft local Strategic Planning Statement;
- d) It is inconsistent with Council's draft Local Housing Strategy and draft Employment Lands and Retail Strategy and supporting studies;
- e) It is inconsistent with Inner West's Affordable Housing Policy (2016);
- f) It is inconsistent with Council's Community Strategic Plan - 'Our Inner West 2036';
- g) It is inconsistent with s.9.1 Local Planning Directions:
 - i. 1.1 - Business and Industrial Zones;
 - ii. 3.1 – Residential Zones;
 - iii. 3.4 – Integrating Land Use and Transport;
 - iv. 4.3 – Flood Prone Land;
 - v. 6.3 – Site Specific Provisions; and
 - vi. 7.1 - Implementation of A Plan for Growing Sydney;
- h) Without a supporting Social Impact Assessment, there is inadequate information to assess whether the proposal has adequately identified or addressed relevant social matters;
- i) It is inconsistent with the Leichhardt Industrial Lands Study and Leichhardt Industrial Precinct Planning Report and would result in further loss of employment and urban services land in the Inner West LGA;
- j) The proposed built form controls and building typology is inappropriate due to adverse amenity impacts on the adjoining low density residential area;
- k) Support of this planning proposal would establish an adverse precedent and the associated loss of smaller, industrial precincts across the Inner West LGA; and
- l) In the context of persistent demand for a limited and decreasing supply of industrial land, the proposal would dilute Council's ability to provide sufficient industrial land to accommodate future needs and emerging employment uses and urban services.

Council's submission refers to the officers' report to the Council meeting of 10 December for a detailed assessment (**Attachment F2**).

In addition, Council states that since the planning proposal was reported to Council, the Inner West Local Strategic Planning Statement (LSPS) has been finalised, becoming effective on 31 March 2020. The subject site is identified in the LSPS as a key industrial precinct; and is not located within any of the investigation areas for additional housing. Council asserts that the Planning Proposal fundamentally fails to give effect to an LSPS which has been endorsed by Council and supported by the Greater Sydney Commission.

Council's submission also notes that on 3 March 2020, Council adopted the Local Housing Strategy. Council points out that the Strategy does not identify the subject site as being suitable for housing. Instead it identifies the industrial function of the subject site as essential for the provision of urban services to support the housing investigation areas. Notwithstanding, the Strategy confirms that Council is on track to meet the five-year housing target identified in the Eastern City District Plan (ECDP) by 2021 and is well positioned to accommodate future dwelling targets to 2036.

ATTACHMENTS

Attachment A – Locality map

Attachment B – Site map

Attachment C – Existing planning controls

Attachment D – Proposed provisions

Attachment E – Rezoning review package, comprising:

- Attachment E1 – Rezoning review cover letter
- Attachment E2 – Rezoning review application form
- Attachment E3 – Planning Proposal, and the supplementary appendices:
 - Attachment E3 - Appendix A1 – Concept design report
 - Attachment E3 – Appendix A2 – Concept design
 - Attachment E3 – Appendix B – Site survey
 - Attachment E3 – Appendix C – Employment impact assessment
 - Attachment E3 – Appendix D – Public benefit offer
 - Attachment E3 – Appendix E – Preliminary contamination assessment
 - Attachment E3 – Appendix F – Flooding report
 - Attachment E3 – Appendix G – Preliminary acoustic assessment
 - Attachment E3 – Appendix H – Traffic and transport report
- Attachment E4 – Correspondence from Council
- Attachment E5 – Site context map
- Attachment E6 – Response to Council’s Architectural Excellence Panel report and plans

Attachment F – Council’s submission to the rezoning review, comprising:

- Attachment F1 – Council submission letter
- Attachment F2 – Council report to the meeting of 10 December 2019
- Attachment F3 – Council resolution at the meeting of 10 December 2019

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