

PRE-GATEWAY REVIEW – Information Assessment and Recommendation Report

LGA:	Leichhardt	
Amended LEP:	Leichhardt Local Environmental Plan 2013	
Address:	245 Marion Street, Leichhardt	
Reason for review:	☒ Council notified proponent it will not support proposed amendment	☐ Council failed to indicate support for proposal within 90 days
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	☐ Provided ☒ N/A Comment: There are no donations or gifts to be disclosed.	

1. SUMMARY OF THE PROPOSAL AND BACKGROUND

The planning proposal ([Tab D](#)) seeks to amend the land zoning, floor space ratio and building height controls applicable, 245 Marion Street, Leichhardt ('the site'). The site comprises one allotment situated between Marion Street and Walter Street and bordered by the Inner West Light Rail Line (see Figure 1). The Marion Street Light Rail stop is immediately adjacent to the site.



Figure 1: Location of site. Source: Google Map 2015

The proposal seeks to amend *Leichhardt Local Environmental Plan 2013* (Leichhardt LEP 2013), as follows:

- rezone the site from IN2 Light Industrial to R1 General Residential (see Figure 2);
- increase the maximum floor space ratio from 1:1 to 3.3:1 (see Figure 3);
- introduce a maximum building height control ranging from 10 metres (3 storeys) along street frontages and then a stepped height up to 50 metres (15 storeys) towards the centre of the site (see Figure 4); and
- amend Schedule 1 Additional Permitted Uses, to allow food and drink premises (despite these uses currently being permitted with consent within the R1 General Residential zone).

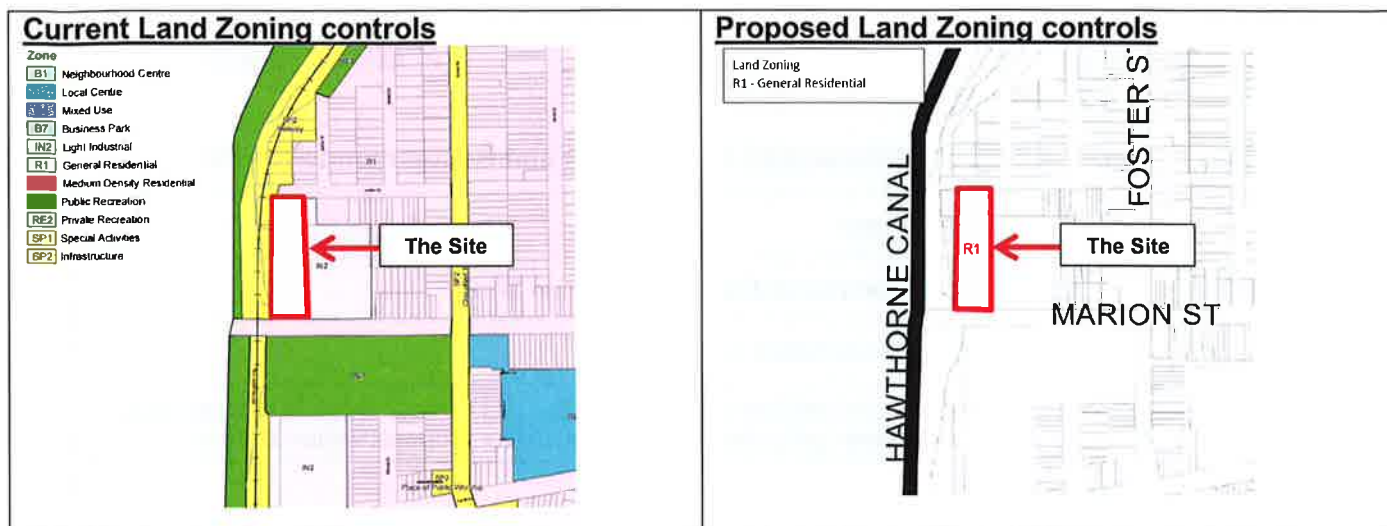


Figure 2: Current and Proposed land zoning controls. Source: Andrew Wilson 2014 & NSW Legislation 2015

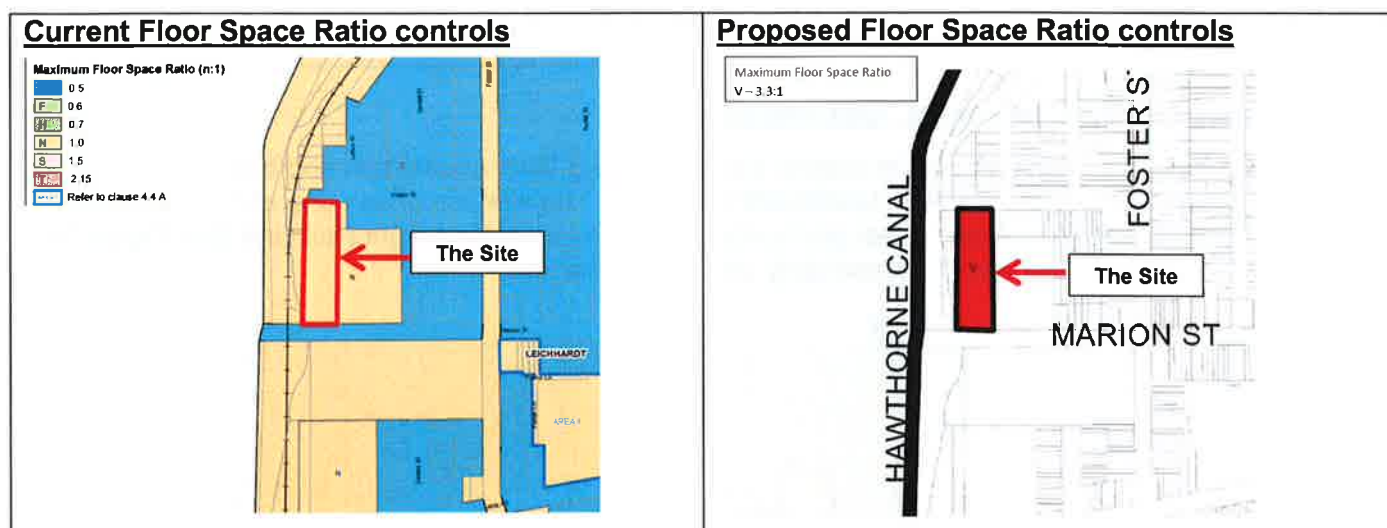


Figure 3: Current and Proposed floor space ratio controls. Source: Andrew Wilson 2014 & NSW Legislation 2015

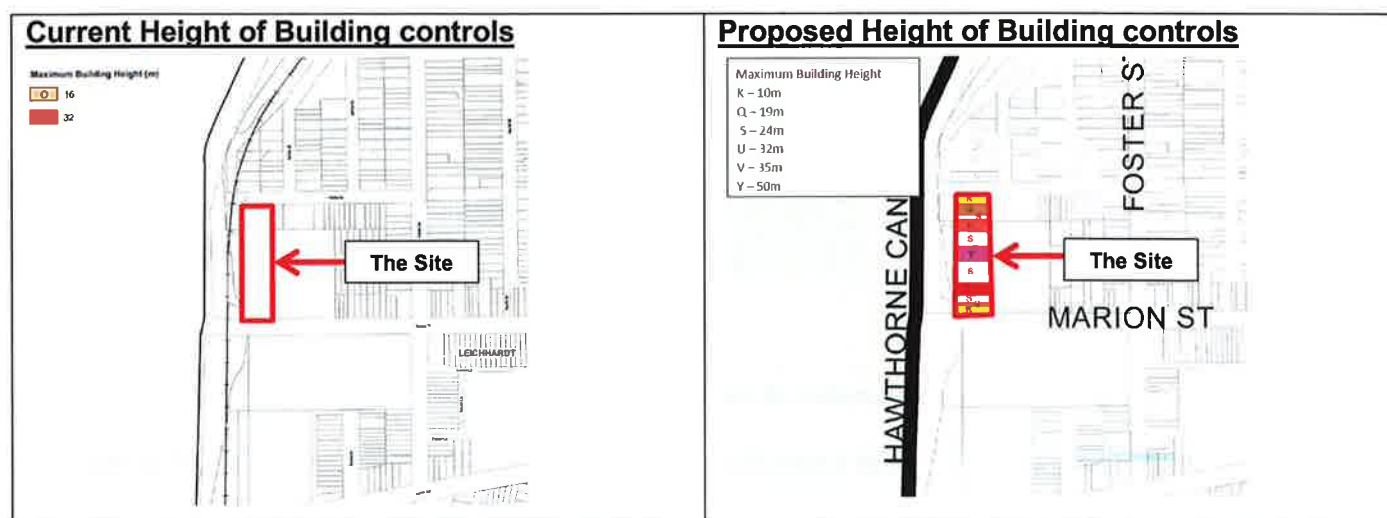


Figure 4: Current and Proposed building height controls. Source: Andrew Wilson 2014 & NSW Legislation 2015

The proposal would enable the development of up to 200 new residential units, with approximately 2,000 square metres of floor space for neighbourhood shops, cafés, community uses and a childcare facility at ground level along with basement car parking. The proponent intends to prepare a site-specific Development Control Plan (DCP), should the proposal proceed to Gateway determination stage.

The site is located outside the Taverner's Hill Precinct (approximately 100m north) identified within the *draft Parramatta Road Urban Transformation Strategy* (2015). Lambert Park is located on the opposite

(south) side of Marion Street. The adjoining site to the east is occupied by a two-storey senior's housing development, and to the north and further east of the site is low density residential development within the R1 General Residential zone.

The site currently contains single storey industrial buildings used for the purpose of vehicle repairs. Vehicular access to the site is from Marion Street and Walter Street to the north.

It is recommended the proposal **not proceed** to the Sydney East Joint Regional Planning Panel for independent review. Whilst the Department notes the site may be suitable for renewal and land use change given its strategic location close to the Marion light rail stop, the proposed bulk and scale of development are considered excessive in the local context and would result in adverse impacts on the character of the local area.

2. REQUIREMENTS UNDER SECTION 55 OF THE EP&A ACT

2.1 Objective and intended outcomes:

The following objectives and intended outcomes have been put forward by the applicant:

- to facilitate urban renewal with a new transit oriented development adjacent to light rail infrastructure consistent with government strategic planning objectives and policies;
- to improve the amenity of the subject land and locality by transforming an underutilised industrial zone to a residential zone with new modern building forms and uses;
- to contribute a supply of housing to meet market demand for additional housing choices and more affordable housing;
- to provide the opportunity for new childcare centre and community uses, neighbourhood shops and café as needed in the locality;
- to establish a density and scale of development that is appropriate for the urban context, proximity to transport infrastructure and environmental capability of the subject land, and that is compatible with surrounding land uses; and
- to facilitate design excellence and consistency with the principles of ecologically sustainable development.

2.2 Explanation of provisions:

The proponent has suggested the following amendments to the Leichhardt LEP 2013 for the site:

- change the zoning of the site from IN2 Light Industrial to R1 General Residential, by amending the Land Zoning map.
- increase the floor space ratio from 1:1 to 3.3:1, by amending the Floor Space Ratio map
- introduce building heights for the site being 10 metres (3 storeys) along street frontages and 50 metres (15 storeys) for the rest of the site, by amending the Height of Building map.

2.3 Mapping:

The planning proposal contains sufficient images illustrating the site in context, but does not contain sufficient mapping consistent with the Standard LEP mapping guidelines. Whilst the proposal identifies the proposed zoning, floor space ratio and height controls for the site, it does not indicate the relative floor space ratio and height controls applying to the surrounding properties. Should the proposal proceed to Gateway, the planning proposal will need to be updated to provide detailed maps of the current and proposed amendments in context.

2.4 Community consultation (including agencies to be consulted):

The proponent has not suggested a period for community consultation and public exhibition, other than that it is anticipated that "planning authorities" will be responsible for carrying out community consultation.

Should the proposal proceed to Gateway, consultation with the following public agencies is recommended: Transport for NSW, Roads and Maritime Services, NSW Environment Protection Agency, Energy Australia, Sydney Water, and Department of Education and Communities.

A public exhibition period of 28 days is recommended should the proposal proceed to Gateway.

3. VIEWS OF COUNCIL AND AGENCIES

3.1 Comments from Leichhardt Municipal Council

Council resolved not to support the planning proposal at its 25 November 2014 meeting for the following reasons (Tab F):

- loss of employment land and the consequent inability to provide sufficient industrial land to accommodate demand;
- inconsistency with s.117 Direction 1.1 Business and Industrial Zones as the proposal:
 - is not justified by relevant strategies in relation to the retention of employment lands, including the draft Metropolitan Strategy for Sydney to 2031 and the draft Inner West Sub-regional Strategy;
 - is not adequately justified by an economic study prepared in support of the planning proposal; and
 - the site is of substantial significance to the local government area's employment land supply;
- the proposal does not have merit when assessed against Council's Employment and Economic Development Plan 2013-2023;
- the proposal is not supported by an economic assessment, net community benefit test or social impact assessment and therefore does not demonstrate strategic merit, nor have such matters been adequately addressed;
- there is no precedent, nor strategic justification for the proposed FSR and building height controls, which would result in unacceptable amenity impacts;
- inadequate information has been provided in relation to landscaping and private open space to ascertain whether SEPP 65 requirements can be met;
- lack of affordable housing provision, contrary to Council's Affordable Housing Strategy (2011); and
- lack of consideration of the strategic context of major NSW projects including the Bays Precinct Urban Renewal, Parramatta Road Urban Renewal and WestConnex.

3.2 Comments from UrbanGrowth NSW

UrbanGrowth NSW's response to the pre-Gateway review request (Tab G) stated they would not formally comment on the proposal. General comment was made highlighting the site's location near the Taverners Hill Precinct identified within the draft Parramatta Road Urban Transformation Strategy (released after the preparation of the proposal), which is identified for future growth due to its access to public transport and proximity to Sydney's CBD (refer to section 4.1.4).

The site is located 100 metres to the north of the proposed Taverners Hill Precinct.

4. PROPOSAL ASSESSMENT

4.1 Strategic merit assessment

4.1.1 A Plan for Growing Sydney

In December 2014, the Department released *A Plan for Growing Sydney* ('the Plan'), the long term strategic plan for metropolitan Sydney.

The site is located in the Central Subregion, along the Inner West Light Rail Line and on the edge of an "Urban Renewal Corridor" (see Figure 5) identified for the delivery of "more housing through targeted urban renewal around centres on the transport network to provide more homes closer to jobs and boost the productivity of the city".

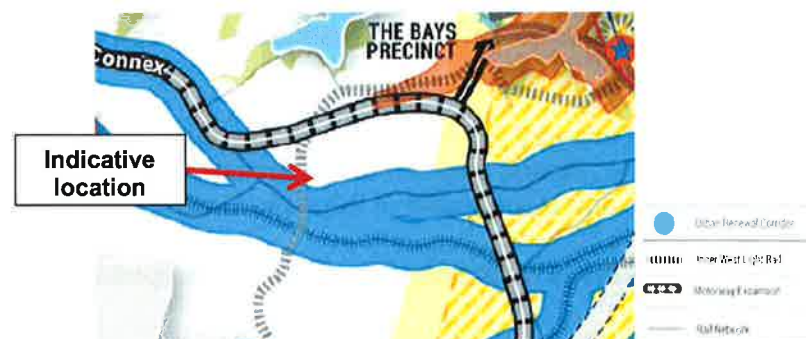


Figure 5: Extract of Central Subregion. Source: A Plan for Growing Sydney 2014

The planning proposal is consistent with the following objectives and actions in the Plan:

- Direction 2.1 and Action 2.1.1 as it would increase the local housing supply and choice in close proximity to jobs and serviced by frequent public transport;
- Direction 2.2 and Action 2.2.2 as it would facilitate urban infill and increase housing production around transport corridors and a public transport access point;
- Direction 2.3, Actions 2.3.2 and 2.3.3 as it would provide a range of housing choices to suit different needs and lifestyles;
- Direction 3.1 as it would revitalise an existing suburb; and
- Central Subregion priority to accelerate housing supply, choices and affordability and build great places to live.

The proposal has also been considered against *Direction 1.9 Support priority economic sectors*, and *Action 1.9.2 Support key industrial precincts with appropriate planning controls*. This Action requires that rezoning proposals are assessed under the Industrial Lands Strategic Assessment Checklist ('the Checklist') (draft Metropolitan Strategy for Sydney to 2031), which aims to prevent encroachment on important industrial sites. The Checklist poses questions about the appropriateness of rezoning industrial land to other uses.

The proponent has provided an assessment of the proposal against the Checklist, contending that:

- the proposed rezoning is consistent with State and local strategies;
- the site is relatively small (approximately 5,200sqm) making the loss of industrial land minor;
- the site is not strategically important or suitable as industrial land, primarily due to its isolation from other industrial zoned land and major industrial transport corridors and infrastructure, and the potential land use conflict with surround non-industrial uses;
- the proposal will generate employment due to the provision of retail and café uses; and
- the site is in a strategic location adjoining a light rail stop, underutilised as an industrial site and a need for additional housing in transit oriented development, and for additional community facilities and child care in the locality.

The proponent's assessment against the Checklist is noted. The Department makes the following additional comments in response to the proponent's assessment:

- the proposal is inconsistent with Council's Industrial Lands Study 2014;
- the site is constrained by residential development and is not strategically important in 'traditional' employment terms, but is suitable for light industrial, high-tech and creative industries;
- the loss of this industrial site would place additional pressure on the remaining industrial sites within the local government area and subregion to compensate the loss. The loss of jobs and employment-generating potential is also a concern, although would be minimal given the small size of the site;
- the proponent has not provided sufficient evidence to justify the claim the site is not strategically important as industrial land. The proponent should give further consideration to alternative zonings and controls to offset the loss of current employment;
- the proponent may consider a proposal that provides a balance of residential and non-residential uses on the site that would continue to deliver local employment while introducing additional residential to the area. This approach could take advantage of the dual street frontage of the site, accessibility to public transport infrastructure, existing services and facilities and retaining an employment presence on site.
- the site is appropriate for residential and commercial uses, consistent with the adjoining seniors housing occupying the remainder of the former industrial area. However, there is not a critical need to provide housing in this location, noting the amount of renewal proposed within direct proximity as part of the Taverners Hill Precinct.

4.1.2 State Environmental Planning Policies

State Environmental Planning Policy 55 Remediation of Land

A review of the Preliminary Contamination Assessment Report (November 1999) provided by Douglas Partners for the proponent concluded that the site is contaminated, containing high levels of heavy metal, polycyclic aromatic hydrocarbons (PAH) and total recoverable hydrocarbons (TRH). However the review notes that there are standard practices and technologies available to remediate the contaminated land and it would not prevent the proposal from progressing. Should the proposal proceed to Gateway, a

detailed contamination study is recommended that clearly demonstrates the site can be made suitable for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

Development must be in accordance with *Subdivision 2 – Development in Railway Corridors* of *Division 15 Railways* and any future development applications for the site must comply with the requirements of this SEPP. The Department recommends Transport for NSW be consulted in respect of the Inner West Light Rail Line, should the proposal proceed to Gateway.

4.1.3 Section 117 Directions

The proposal consistency with the key relevant S117 directions is outlined below.

Direction 1.1 Business and Industrial Zones

The proposal is inconsistent with this direction as it seeks to rezone industrial land to residential which will reduce the area of existing industrial zones in the local government area. To be 'justifiably inconsistent' with this direction, the proposal must be justified by an approved strategy, or be of minor significance and the proposal is not justified or supported by either.

The proposal relies heavily on the apparent precedent set by previous decisions to rezone industrial land in Leichhardt and the sites strategic location adjoining the light rail stop. The proposal does not provide adequate justification for the loss of industrial land and lacks economic analysis.

Should the proposal proceed to Gateway, an industrial lands study would need to be prepared to justify the inconsistency with this direction prior to exhibition.

Direction 3.1 Residential Zones

The proposal is consistent with this direction as it encourages a variety of housing types in a location well serviced by existing infrastructure and in close proximity to services

Direction 3.4 Integrating Land Use and Transport

The proposal is consistent with this direction as it provides additional housing in close proximity to jobs and in a location well serviced by existing public transport infrastructure.

Direction 4.1 Acid Sulfate Soils

This direction seeks to avoid significant adverse environmental effects from the use of land that has acid sulfate soil. The site is identified within the Leichhardt LEP 2013 as containing "Class 5 Acid Sulfate Soil". The proponent has not addressed this direction.

Should the proposal proceed to Gateway, the proposal must demonstrate consistency with this direction prior to exhibition.

Direction 4.3 Flood Prone Land

The site is identified as a "Flood Control Lot" in Council's DCP 2013 which requires the provision of a Flood Risk Management Report. A letter prepared by GEC Consulting Pty Ltd for the proponent provides recommendations on how the flood risk can be managed based on the Council's Flood Study Report (2010). However the proponent has not addressed this direction in sufficient detail.

Should the proposal proceed to Gateway, the proposal should demonstrate compliance with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 prior to exhibition.

Direction 7.1 Implementation of A Plan for Growing Sydney (2014)

This direction gives legal effect specifically to the planning principles, directions, and priorities for subregions, strategic centres and transport gateways contained in *A Plan for Growing Sydney*. Whilst the proposal is consistent with housing objectives, it is inconsistent with objectives to protect industrial land.

A more detailed analysis of the proposal's consistency with *A Plan for Growing Sydney* has been provided at Section 4.1.1 of this Assessment Report.

4.1.4 Draft Parramatta Road Urban Transformation Strategy (2015)

In September 2015, UrbanGrowth NSW released the draft Parramatta Road Urban Transformation Strategy ('the draft Strategy'). The draft Strategy is a 30 year plan to transform the Parramatta Road Corridor and adjoining areas. Eight precincts are identified for future growth and intensification.

The site is located approximately 100 metres north of the Taverners Hill Precinct ('the Precinct') within the draft Strategy (see Figure 6), which is earmarked for an additional 2,751 new homes and 963 new jobs. The draft Strategy states the precinct "*could evolve to support higher scale residential development, while maintaining the precinct's existing focus on the creative industries*", due to its close proximity to regular public transport services and open space.

As the site is located outside of the Precinct it is not identified for increased density under the Strategy. A vision for the Precinct is to ensure local services are located within residential areas rather than along Parramatta Road. The proposal would remove an existing service for the purpose of vehicle repairs within the locality.

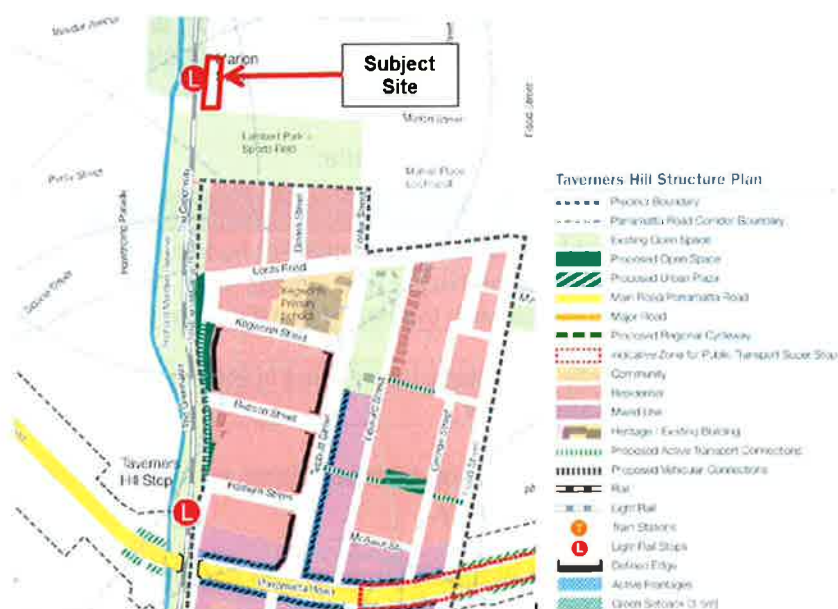


Figure 6: Taverners Hill Precinct in the Draft Parramatta Road Strategy 2015. Source: UrbanGrowth NSW 2015

The maximum height being considered for the Taverners Hill Precinct is 42 metres (12 storeys) for development adjacent to Parramatta Road and selected sites along the border of the Precinct. The land on Lords Road, immediately to the south, has been identified for a maximum of 12 storey development, transitioning to an average of 6 storeys adjacent to low density residential areas.

The proposal does present variation in height across the site however seeks a maximum height of up to 50 metres on the site (approximately 15 storeys). The proposed height and density is above the maximum proposed under the Strategy.

4.1.5 Local Strategy

Leichhardt Industrial Lands Study (2015)

In February 2015, Council adopted the *Leichhardt Industrial Lands Study* ('the Study') to assist in responding to recent and future applications to rezone industrial land. The study notes the majority of industrial land within the local government area is local services and light industry with an emerging trend of 'creative' industries and niche manufacturing industries replacing traditional industrial businesses. However the increasing demand for industrial land and services outweighs the existing supply which is minimal and declining. The Study recommends that Council develop an industrial land strategy that includes protecting key industrial precincts in the local government area.

The site is not identified within the key precincts within the Study. However, the proposal is not consistent with the Council's objective to preserve existing industrial land within the local government area as the proposed R1 General Residential zone prohibits various industry uses including light and high technology industries. The proposed rezoning of the site for residential uses would contribute to the further erosion of industrial land stocks in the local government area.

Leichhardt Employment and Economic Development Plan 2013-2023

Leichhardt 2025+ Community Strategic Plan

Council's Economic Development Plan and Strategic Plan also highlight the need to protect existing industrial land and embrace creative industries in the local government area.

However, the Economic Development Plan identifies the site may be suitable for rezoning, as it is modest in size and fragmented from other industrial sites, providing it is supported by a thorough market analysis and independent Economic Impact Assessment.

4.2 Site-Specific merit assessment

4.2.1 Existing use of land

The site is located between Marion Street and Walter Street, Leichhardt, adjacent to the Inner West Light Rail Line, and is zoned IN2 Light Industrial. The site currently contains a single storey vehicle servicing workshop, with vehicular access from both Marion and Walter Streets.

The following development controls currently apply to the site:

Control	Explanation
Zoning	IN2 Light Industrial. Residential flat buildings are prohibited.
Building height	Not identified on Height of Buildings map. DCP requires the height to be compatible with the height of existing or approved buildings.
Floor space ratio	1:1
Heritage	No State or Heritage listed items in the site area
Flooding	Flood affected lot

The built form of the area surrounding the site can be characterised as a mixture of low density housing, open space and a two storey seniors housing facility.

Note that the adjoining land, while also zoned industrial, comprises senior housing development.

4.2.2 Proposed use of land

The planning proposal is for a 3-15 storey mixed use development, containing up to 200 residential apartments and 2,000 square metres of floor space for neighbourhood shops, cafes, community uses and a childcare facility.

The planning proposal seeks to amend the development controls for the site to the following:

Control	Explanation
Zoning	R1 General Residential. Residential flat buildings are permitted with consent.
Building height	10 metres (3 storeys) along street frontages and then a stepped height up to 50 metres (15 storeys) towards the centre of the site
Floor space ratio	3.3:1

4.2.3 Urban design and built form outcomes

An urban design study (Tab H) was prepared by Figgis + Jefferson TEPA. The study suggests the development, sited within its low scale residential neighbourhood context, will be designed to be modulated in height, with articulated building forms and mass. The proposed built form is illustrated in Figure 7 below.

The built form outcomes proposed as a result of the urban design analysis comprise:

- Low building heights (of up to 3 storeys) along Marion Street and Walter Street;
- Rising up to 6 and 8 storeys along the central portion of the site; with
- Up to 3 residential towers with a central 15 storey residential tower flanked by lower (9 or 10) storey towers on each side.

The urban design intent is to provide for 3 storey facades at Marion and Walter streets at the interface with lower density development. The design also recognises that the light rail corridor is elevated 5m (1.5 storeys) above Marion Street and that a broad open space corridor exists to the west of the site. It is noted that the proposed development concept incorporates a setback of at least 9.6 metres to the adjoining buildings to the east.

The supporting shadow analysis demonstrates the proposed development will overshadow the area to the south-west of the site including Hawthorne Canal Reserve, Marion Light Rail Station and houses in the neighbouring Ashfield local government area at 9am during the winter solstice. The shadow will then fall on the northern section of Lambert Park (heritage item to the south of the site) and the adjacent seniors living facility (east) from 3pm.

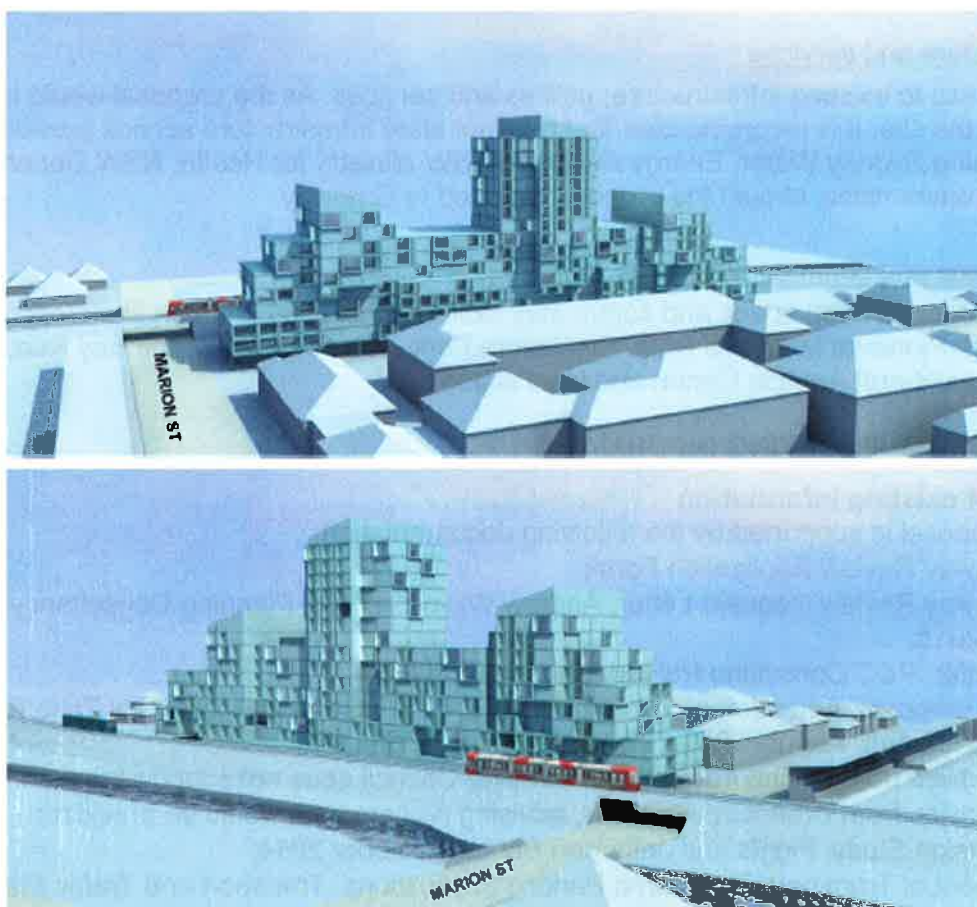


Figure 7: Proposed Built Form (west and east view from Marion Street). Source: Figgis + Jefferson TEPA 2014

The urban design analysis fails to demonstrate that the resulting development will be appropriate in the local context. The bulk and scale of the proposed building will be highly prominent locally and subregionally and will receive high exposure to the passing light rail. Whilst the Department supports renewal of the site, the building height and floor space proposed is not appropriate and will have an adverse impact on the amenity of the locality.

It is also noted the proposed heights exceed the heights proposed for the Taverners Hill Precinct, which will range from 17-42 metres (i.e. maximum of 12 storeys).

4.3 Services and infrastructure

4.3.1 Public transport – Light rail, trains and buses

The site is well serviced with public transport infrastructure. The site is directly adjacent to the Marion Light Rail Station (west of site) with regular services to Central Railway Station, Dulwich Hill Railway Station, Lilyfield, Glebe, Pyrmont and Lewisham. The site is also within 200 metres of regular bus services along Marion Street, providing connections to various locations across the Sydney metropolitan region (such as the Sydney CBD, University of Sydney, Parramatta Road, Abbotsford, Mortlake, Canada Bay, Five Dock and Camperdown).

4.3.2 Traffic and car parking

The planning proposal is supported by a traffic study that concludes the potential traffic generated by the proposed development would not have any unsatisfactory operational implications. In addition, the report suggests there would be adequate on-site parking provided in accordance with Council's DCP requirements. Council's assessment of the proposal anticipates that the local road network is able to accommodate the generated traffic, but further detail in regards to sight lines and manoeuvring will need to be provided at the development application stage. Council also considers that suitable on-site parking can be provided.

4.3.3 Infrastructure and services

The site has access to existing infrastructure, utilities and services. As the proposal would intensify development on the site, it is recommended that relevant state infrastructure service providers are consulted, including Sydney Water, Energy Australia, NSW Ministry for Health, NSW Department of Education and Communities, should the proposal proceed to Gateway.

4.3.4 Open space and community facilities

The site is accessible to open space and community facilities, including Lambert Park (opposite the site), Hawthorne Canal, Pioneers Memorial Park, Blackmore Park, The Greenway, The Bay Run, Haberfield Tennis Courts, Leichhardt Aquatic Centre and local schools.

5. BACKGROUND SUPPORTING INFORMATION

5.1 Adequacy of existing information

The planning proposal is supported by the following documentation:

- Pre-Gateway Review Application Form;
- Pre-Gateway Review Request Letter, Andrew Wilson – Town Planning Consultancy Service, January 2015;
- Cover Letter, P&C Consulting Pty Ltd, December 2014;
- Planning proposal, Amendment to Leichhardt LEP – R1 General Residential Zone for 245 Marion Street, Leichhardt, August 2014 (as refused by council);
- Written advice from Leichhardt Council, advising Council does not support the planning proposal;
- Written advice from UrbanGrowth NSW, advising no comment would be provided;
- Urban Design Study, Figgis and Jefferson Pty Ltd, October 2014;
- Assessment of Transport, Traffic and Parking Implications, Transport and Traffic Planning Associates, October 2014;
- Review of Preliminary Contamination Assessment Report, Douglas Partners Pty Ltd, October 2014; and
- Flood Risk Assessment, GEC Consulting Pty Ltd, November 2014.

Is the supporting information provided more than 2 years old?

Yes ☐ No ☒

If 'yes', explain/detail currency of information

Is there documented agreement between the proponent and the council regarding the scope/nature of supporting information to be provided?

Yes ☒ No ☐

Is there evidence of agency involvement in the preparation of any supporting information or background studies?

Yes ☒ No ☐

5.2 Requirement for further information

No further information is required.

6. CONCLUSION

The Department has considered the proposal and supporting documentation and concludes that there is insufficient merit in the proposal proceeding to the Sydney East Joint Regional Planning Panel for independent review in its current form.

The Department recognises the site provides an opportunity for urban renewal, being located adjacent to the Marion light rail stop, within a broader industrial area that has already transitioned to residential land use (i.e. seniors housing), has direct access to a high frequency bus corridor along Marion Street and is in close proximity to existing services and facilities.

The proposal demonstrates strategic merit through the provision of housing to meet the needs of Sydney's growing population in a highly accessible location, which may, on balance, outweigh the potential loss of an isolated industrial site. It is noted that the potential loss of this industrial site is not supported by an employment assessment or market analysis, which would assist in justifying the departure from Council's recent Industrial Lands Study. It is also noted that the proposal offers a low level of balance in retaining an employment presence on site

Whilst the Department supports renewal on this site, particularly considering its strategic location, the planning proposal would result in development that is out of character with the surrounding neighbourhood. The proposed bulk and scale of development is considered excessive, is beyond the maximum scale planned for the Taverners Road urban renewal precinct and will have an adverse impact on the amenity of adjoining low scale residential uses.

It is recommended that any future planning proposal affecting this site incorporate the broader industrial area, as the industrial zoning does not reflect the current use of the land as seniors housing.

7. RECOMMENDATION

It is recommended that the Deputy Secretary:

1. **form the opinion** that insufficient justification has been provided and the request is not eligible for review, and
2. **agree to not forward** the request to the Sydney East Joint Regional Planning Panel for advice.

Endorsed by:


Simon Manoski
A/General Manager, Metropolitan
29.10.15


Brett Whitworth
A/Executive Director, Regions
29 October 2015


Marcus Ray
Deputy Secretary, Planning Services
20/11/15

